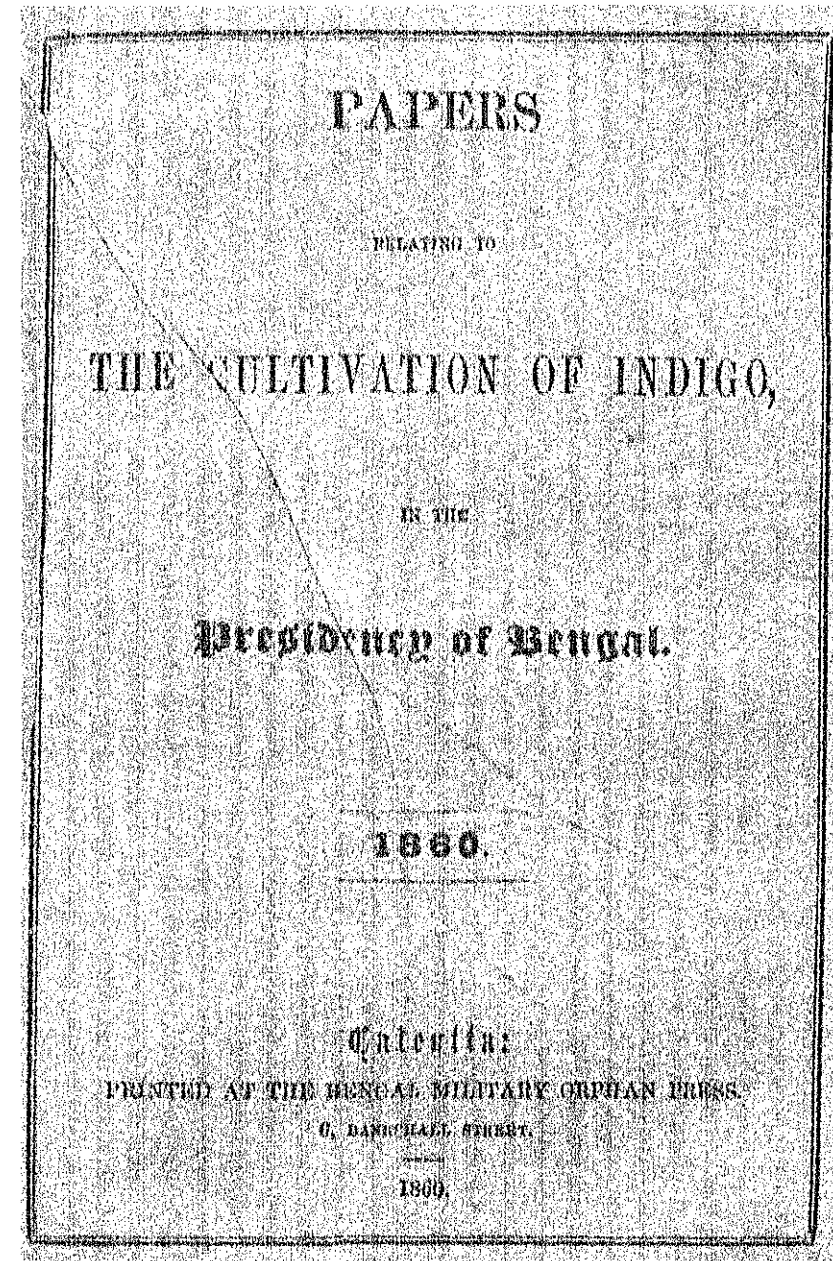


creditor account ;" the supposition that the ryots voluntarily come to the planter for advances in bad seasons, and the statement that every beegah around the factory was reclaimed from the *desert* by the planter's money. This latter statement is too ridiculous ; the land was in all probability in a higher state of cultivation when India first became a British possession than it is now. We wish also that Mr. Cooke had been in a position to find out how much of the annual two millions, which he says is expended in Indigo, goes into the hands of the ryots.—*Indian Field*, December 4, 1858.





PAPERS

RELATING TO

THE CULTIVATION OF INDIGO,

IN THE

Presidency of Bengal.

1860.

Calcutta:

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1860.

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## TABLE OF CONTENTS.

|                                                                                                                                                                                                                                                                                                                                 | <i>Pages.</i> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| Letter from the Secretary to the Government of India, to the Government of Bengal, forwarding a Petition from the Indigo Planters' Association, complaining of certain proceedings of the Lieutenant-Governor connected with Indigo, ...                                                                                        | 1-17          |
| Letter from Secretary to the Government of Bengal to the Secretary to the Government of India, submitting a Minute of the Lieutenant-Governor on the said complaint, ...                                                                                                                                                        | 17-53         |
| Letter from the Secretary to the Government of India, expressing the general approval of the Governor-General in Council of the course followed by the Lieutenant-Governor                                                                                                                                                      | 54-55         |
| ✓ Letter from Secretary to the Government of Bengal in reply to the above, suggesting the issue of a General Notification, containing an announcement by the Government of India of what immediate course was to be followed in consequence of the Report of the Indigo Commission, and of the excitement of the Natives ... .. | 55-67         |
| * Letter from Secretary to the Government of India, forwarding a further Petition from the Indigo Planters' Association, containing certain comments on the Lieutenant-Governor's Minute on their first complaint ... ..                                                                                                        | 68-87         |
| + Reports from Mr. J. S. Bell, P. S. Ameen, and Mr. W. J. Herschel, Magistrate of Nuddea, on the subject of the above petition ... ..                                                                                                                                                                                           | 87-101        |
| ~ Letter from the Secretary to the Government of Bengal, to the Secretary to the Government of India, submitting a Minute, recorded by the Lieutenant on the last complaint of the Indigo Planters' Association ... ..                                                                                                          | 102-115       |
| Correspondence connected with the issue of the Indigo proclamation, and relative to the measures adopted immediately on the receipt of the Report of the Commission ...                                                                                                                                                         | 116-129       |



## CORRESPONDENCE

REGARDING

### THE CULTIVATION OF INDIGO.

From W. GREY, Esq., Secretary to the Government of India, Home Department, to A. R. YOUNG, Esq., Secretary to the Government of Bengal, No. 1874,—(dated 27th July 1860.)

SIR,—I AM directed to forward the accompanying copy of a Petition presented to the Government of India by the Central Committee of the Bengal Indigo Planters' Association, on behalf of the Association, and to intimate, that the Governor General in Council will be glad to have the Lieutenant-Governor's remarks on the statements made in the Petition.

Petition of the Bengal Indigo Planters' Association to the Right Hon'ble His Excellency the Viceroy and Governor General of India in Council.

RESPECTFULLY SIGNED,

That your Petitioners' Association is composed principally of persons engaged in the cultivation of Indigo in the Lower Provinces of Bengal, a cultivation which has been by one Right Hon'ble Member of the Council remarked upon as one of the few in India attracting British capital to Native labor, and one which the Government would, above all others, wish to encourage.

2. That although your Petitioners are convinced of this desire on the part of the Government of India, the present Governor of Bengal, the Hon'ble John Peter Grant, has, since his appointment to his present office, unfortunately acted in such a way as to throw nearly the whole of the Indigo Districts, and especially Kishnaghur, into confusion, and unless something be done to remedy the present system of misrule, many Indigo Planters must be irretrievably ruined, while the inevitable

result of the withdrawal of British Capital from the Districts is a matter of no small importance.

3. That your Excellency in Council may probably be, in consequence of your Excellency's duties having made it necessary for you to proceed up the country at the time in question, not immediately acquainted with the origin of the disturbances which have for some months been existing in Kishnaghur and the adjacent Districts, and which have already put Government to so much expense.

4. That the origin of those disturbances undoubtedly was the conduct of the Hon'ble Mr. Eden, then Magistrate of Baraset, allowing the Ryots of the Baraset District to become aware that his feeling was against the Indigo Planters; whereupon the Manager of the Bengal Indigo Company complained to the then Governor of Bengal, now Sir Frederick Halliday, but that gentleman having retired from office, the matter was finally investigated by the Hon'ble John Peter Grant, who supported Mr. Eden.

5. That on the 17th August 1859, the Hon'ble Mr. Eden wrote to the Deputy Magistrate of Kalaioonh a letter, which your Excellency in Council will at once see was intended to point out the advisability of Ryots objecting to cultivate:—

“As the cultivation of Indigo is carried on to a considerable extent in your Sub-Division, I beg to forward for your information and guidance Extracts from a Letter No. 4516, dated 21st July 1859, from the Secretary to the Government of Bengal, to the Commissioner of the Nuddea Division.

“You will perceive that the course laid down for the Police in Indigo disputes is to protect the Ryot in the possession of his lands, on which he is at liberty to sow any crop he likes, without any interference on the part of the Planter or any one else. The Planter is not at liberty, under pretext of the Ryots having promised to sow Indigo for him, to enter forcibly upon the land of the Ryot. Such promises can only be produced against the Ryot in the Civil Court, and the Magisterial Authorities have nothing to do with them, for there must



be two parties to a promise ; and it is possible that the Ryots, whose promises or contracts are admitted, may still have many irresistible pleas to avoid the consequences the Planter insists upon."

6. That on the 20th August 1859, the said Hemchunder Kur published in the District the following unfortunate and ill-judged Proclamation :—

#### TRANSLATION.

"To the Darogah of Thannah Kalmoonh. Take Notice.—A letter from the Magistrate of Baraset, dated the 17th August 1859, having been received, accompanied by an Extract from an English letter from the Secretary to the Government of Bengal, to the address of the Commissioner of the Nuddea Division, dated 21st July 1839, No. 4516, to the following purport,—that in cases of disputes relating to Indigo Ryots, they shall retain possession of their own lands, and shall sow on them what crops they please, and the Police will be careful that no Indigo Planter, nor any one else, be able to interfere in the matter ; and Indigo Planters shall not be able forcibly to cause Indigo to be sown on the lands of those Ryots, on the ground that the Ryots consented to the sowing, &c. of Indigo. If Ryots have so consented, the Indigo Planter may bring an action against them in the Civil Court. The Criminal Court has no concern in these matters, because, notwithstanding such contracts, or such consent withhold or given, Ryots may urge unanswerable excuses against the sowing of Indigo. A copy of Perwannah is therefore issued, and you are requested in future to act accordingly.—Dated 20th August 1859."

7. That the consequence of this was that the Ryots in that and the surrounding Districts immediately believed that Government wished to put a stop to Indigo Planting, and on the 14th October 1859, the Manager of the Jingerghatcha Indigo Concern brought to the Commissioner's notice the dangerous effects of such a Proclamation, and after an investigation the Commissioner, Mr. Grote, as well as Messrs. Reid and Drummond, who were all men who thoroughly understood the Indigo District and the people, unanimously condemned

the indiscretion of the Magistrate and Deputy Magistrate, although the Hon'ble Mr. Grant, on the 7th April 1860, wrote a letter in which he stated that he considered that Mr. Eden had given a satisfactory explanation.

8. That although that might appear so to His Honor, the consequences in the meantime were serious in the extreme to the Planters, and about the beginning of February, on the return of the Hon'ble Mr. Grant from a tour through the Indigo Districts, a report spread rapidly throughout the whole of the villages that the Government were opposed to the cultivation of Indigo.

9. That your Petitioners believe that this was caused by the Lieutenant-Governor allowing himself to form and openly express an opinion hostile to the system of Indigo Planting, although at a subsequent interview which a Deputation of your Petitioners' Association had with His Honor, he stated plainly that he had never had any experience in the Indigo Districts, and that he was very ignorant on the subject; and in order to show that your Petitioners' belief on that subject is not unfounded, they would beg your Excellency's attention to the following Extract from a letter from Mr. Grant to Mr. Seamer, dated the 23rd March 1860, written ten days after the interview with the Deputation, and published by the authority of the Government of Bengal, which is as follows:—

“ I am myself of opinion that the Indigo cultivators” (meaning the Ryots)—“ have and long have had great and increasing ground of just complaint against the whole system of Indigo cultivation.”

10. That the occasion of the writing of that letter was the earnest entreaty of the Planters, that His Honor should request Mr. Seamer to bring into the Legislative Council a Bill to compel Ryots to complete their engagements, a measure which was absolutely necessary, as from the rapid spread of the disaffection amongst the Ryots many Planters saw ruin staring them in the face, while the Districts were becoming so disturbed that neither life nor property were safe.

11. That the Legislative Council at once saw the necessity of speedy action, and the Act XI. of 1860 was passed and received your Excellency's assent.

12. That your Petitioners believe that, if the Local Authorities had been permitted to carry out the provisions of this Act without interference on the part of His Honor the Lieutenant-Governor, none of the difficulties with which the Planters have to contend would now exist, while, instead of having a prospect before them of utter ruin to many Factories next season, matters would have gone on to the mutual advantage of the Capitalist and Laborer—all differences between them being settled, like every other commercial arrangement, upon the simple question of price.

13. That immediately upon the Act being passed, His Honor published, on the 4th April 1860, a letter of instructions which is hereto annexed and marked No. 1, which refers to a previous letter published by His Honor, and which is hereto annexed and marked No. 2, and your Petitioners humbly submit to your Excellency in Council, that at a time when the Ryots were all under the belief that the Lieutenant-Governor was opposed to the system of Indigo Planting, it would have been more proper to leave the Magisterial Officers to exercise their own discretion as to the mode of acquainting the Ryots with the terms of the Act, instead of directing the Magistrates to communicate to them the desire of Government, or pointing out to them, as in the 7th paragraph of the letter marked No. 2, that the Act was only to apply to the current season, hereby keeping alive in the minds of the Ryots a feeling of excitement that a discreet Magistrate if left to himself would have known how to avoid.

14. That considering the powers which His Honor has as to the removal of Magistrates, it was, as your Petitioners submit, uncalled for—unless the Hon'ble the Lieutenant-Governor could not trust the Magisterial Officers of the District—to hold out as he did in the letter No. 1 a threat of removal if any Magistrate interpreted the Act contrary to His Honor's views.

15. That the Lieutenant-Governor, in laying down Rules for the interpretation of the Act, exceeded, as your Petitioners submit, his powers, and trespassed upon the province of the Legislative Council and of the Judicial Officers of the Government, because, where a question as to the meaning of an Act arose, a Judicial tribunal, where both sides could be heard, was the proper forum to interpret it.

16. That your Petitioners beg to draw to the earnest consideration of your Excellency in Council that the Lieutenant-Governor has, since that Act was passed, interfered with the working of it in such a way as to make it wholly useless for the purpose which the Legislative Council had in view; and your Petitioners have only to refer to the Records of the Government of Bengal containing the Papers relative to Indigo Planting, which are published by authority, to show that His Honor has exercised an improper and most indiscreet interference with sentences passed by the Magistrates.

17. That soon after the passing of the Act, a Mookhtear was tried by Mr. Betts for instigating Ryots to break their engagements, and a number of Ryots were sentenced for ploughing up Indigo that had been sown.

18. That both of these offences had become very common, and it was necessary for the sake of example to put them down at once; but notwithstanding this, and the express provision by the Legislative Council that there should be no appeal, the Lieutenant-Governor, on the 19th April 1860, ordered the Commissioner to review these proceedings, as appears by the letter hereto annexed, and marked No. 3.

19. That by adopting such a course, the Prosecutors had not even the chance which, if there had been an appeal, they would have had of showing that the convictions were proper, and the Lieutenant-Governor soon afterwards ordered the release of the Mookhtear and the Ryots, which did more harm than your Excellency can imagine.

20. That in order to show what the wish of His Honor was, this

proceeding has been followed up by his directing the release of many other Ryots imprisoned duly according to law, and the removal from the Indigo Districts of the Magistrates, Messrs. Betts, Mackenzie, Macneill, and Taylor, and the substitution for them, in cases coming under the new Act, of some of the Principal Sudder Ameeris of other Districts.

21. That the effect of His Honor's interference has, amongst other things, been to create an impression, not only in the minds of the Magistrates, but also of the Planters and Ryots, that any decisions in favor of the Planters would meet with the disapproval of the Government of Bengal; and your Petitioners would beg leave to draw the attention of your Excellency in Council to the evidence, amongst others, of Mr. Foulton and Mr. Taylor, given before the Indigo Commissioners (the evidence on oath of men of the most unimpeachable character), to shew the effect of these acts of His Honor, and the absurdity of continuing to institute Suits under the new Act.

22. That in a recent case in which a decision has been given by Mr. Herschell, Magistrate of Kishnaghur, which your Petitioners consider to be entirely contrary to the evidence, and most unjust to the Planter concerned, His Honor has, upon a Special Report of the case to him, ordered copies of it to be distributed among the Officials, before whom cases under Act XI., 1860, are tried, with an intimation that Mr. Herschell's decision is to be taken as a rule to guide them in all similar cases. This your Petitioners look upon as a most unusual and unauthorized interference with the ordinary course of law, and the proper independence of the Judicial Authorities, and especially unfair and injurious to your Petitioners, inasmuch as the evidence produced was chiefly that of Books and Documents, kept according to the common practice of all Indigo Factories, which are thereby, and in this particular case, unjustly condemned wholesale, as not to be received as good evidence of claims against Ryots, and being the only corroborative evidence Planters have to produce, such claims are practicably rendered impossible of proof.

23. That your Petitioners beg to draw particular attention to the evidence of Mr. Taylor, a man of the highest honor and reputation (given before the Commissioners), by which it appears that, while the decision of cases under Act XI. was left to the gentlemen acting as Magistrates in the District, every case was decided in his favor, but every case which has since their removal been brought by him before the Principal Sudder Ameer, although supported by the same class of evidence as in the previous cases, has been dismissed,—a fact that, as your Petitioners submit, shows the effect of the interference which they now complain of.

24. That in several Districts contracts have been entered into for three years and upwards, and in the absence of any Legislative Enactment to the contrary, such contracts are in every way binding, and many Planters have made their calculations for the several seasons on the knowledge of these contracts; but His Honor, without taking this fact into consideration, or indeed considering for one instant, the serious effect on all cultivators of Indigo of such a proceeding, lately published a Proclamation, the immediate effect of which was to cause the Ryots, in many Districts, who were previously perfectly quiet, and especially in Messrs. Watson and Co.'s Factories, to combine against their employers.

25. That the Proclamation is as follows:—

*Ishtahar by the order of the Hon'ble the Lieutenant-Governor.*

*The following Ishtahar is issued for the information of those Ryots who have been put in prison on account of claims against them for non-fulfilment of their contracts for sowing Indigo, or having taken advances for the current season, and those against whom claims are now pending, as also those who are in any way connected with Indigo.*

„ The Act XI. of 1860, respecting Indigo, which is now in force, will only remain so for a short time. Commissioners will be appointed before the commencement of next season for sowing Indigo to enquire into the cause of complaint by the Ryots in respect of the cultivation of Indigo, and on their report to Government, such rules will be laid

down as will benefit all parties, and will undoubtedly show no partiality to any one. On the expiration of the present season, it will be optional for the Ryots to receive advances and to enter into contracts for sowing Indigo. That is to say, that as for those who have been imprisoned for not sowing Indigo this season in terms of their contracts on proved claims, it will rest with them to receive, or not receive, advances to sow Indigo in future, although for this season they are required in terms of their contract to sow Indigo.

REVENUE COMMISSIONER'S OFFICE, }  
*Mudda Division.* }

26. That if there were any doubt in the mind of your Excellency in Council as to the views of His Honor on the subject of the Indigo disputes, and his interference with and implied disapproval of the Act of the Legislative Council, this Proclamation would, as your Petitioners believe, remove it, and the effect of it upon the contracts not yet completed will be irretrievably injurious. That in consequence of this constant interference of His Honor, the people of Lower Bengal are losing all respect for the Officers of Government, and the minds of the people in the Indigo Districts are kept in a state of greater excitement and uncertainty than they were before Act XI. of 1860 was passed. The Districts of Jessore and Pubna, hitherto comparatively quiet, are becoming seriously disturbed, and in them, as well as in Kishmaghur, the greatest difficulty is experienced by Planters in inducing the Ryots to cut the fine crop of Indigo Plant now ripe for manufacture, and which will give a handsome return to both Planters and Ryots, unless allowed to perish by the misguided folly of the people.

27. That although in the course of the evidence taken under the Commission appointed to enquire into the state of the cultivation of Indigo, and which Commission was appointed at the earnest request of your Petitioners, a mass of evidence in support of the allegations that the Ryots are opposed to the cultivation of Indigo, and that it is anything but advantageous to the people to have it cultivated, has been given,

your Petitioners refer with confidence to the evidence of the Planters themselves, and more particularly to the plain, visible, and undeniable fact, that wherever Indigo Factories are situated in Bengal, there the people are richer, the country more highly cultivated, and the province in a more advanced and prosperous state, than in any District where Factories do not exist; and your Petitioners point with pride to the fact that, within but a few years, miles and miles of country which were covered with the rankest jungle, are now highly cultivated and productive lands.

28. That your Petitioners believe that if your Excellency in Council is desirous of retaining English Capital in Bengal, it is absolutely necessary to adopt some measures to prevent His Honor the Lieutenant-Governor of Bengal from interfering, as he now does, behind the backs of persons interested, in cases pending or decided, with the due administration of the law, and to direct His Honor to leave to the Legislature and the regularly appointed Tribunals of the country, the promulgation and administration of the Law.

Your Petitioners therefore humbly pray your Excellency in Council to take into consideration this Petition, and to pass such orders as may oblige His Honor the Lieutenant Governor of Bengal to refrain from pursuing a course of conduct which cannot but be ruinous to the Indigo Planters in Bengal, and to point out to His Honor the impropriety of interfering with the due course of the administration of the Law by the regularly appointed Judicial Officers as laid down by the Legislative Council of India, and which interference is, as your Petitioners sub-



mit, both illegal and unconstitutional, and especially indiscreet in the case of a dispute between capital and labor, and that your Excellency may pass such further orders as may, under the above circumstances, seem proper.

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A P P E N D I X.

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No. 1.

From A. R. YOUNG, Esq., Secretary to the Government of Bengal,  
to the Commissioners of the Nuddoa and Rajshahye Divisions,  
—(dated the 4th April 1860)

SIR,—THE “Bill to enforce the fulfilment of Indigo Contracts, and to provide for the appointment of a Commission of Inquiry,” as read a third time, and passed in the Legislative Council on Saturday last, differs in some respect from that read the first and second time, in regard to which general instructions were conveyed to you in my letters Nos. 1273 and 1290, dated the 27th and 28th ultimo respectively.

2. It is necessary, therefore, that the state of the Law, as it will now stand, when the anticipated assent of His Excellency the Governor General is given to it, so far as it affects the Ryots, should be very carefully explained to them, in the same manner that the provisions of the Bill in its former state were explained to them.

3. The following are the most important changes made :—

4. The summary and exceptional process available by this Law <sup>and</sup> may be applied to the whole matter of any agreement to cultivate Indigo during the present season, for which any advance in cash has been received, instead of being restricted to so much of it as was made in consideration of the advance in cash : and there is no maximum to

which the damages assessable by the Magistrate are restricted in proportion to the amount of each advance received. Moreover the Magistrate may now decree specific performance ; he may decree costs and compensation against a complainant failing to prove his case, and his decision bars all further proceedings in the matter of the contract in question. The provision that there shall be no appeal from the Magistrate's order remains as it was before it was proposed to give him these extended powers. These changes add materially to the responsibilities of the Officers vested with Magisterial powers under the Act, and they make it more than ever imperative on those Officers to give their utmost attention to the equitable principles it will fall to them to apply, and to the careful ascertainment of the facts whenever there may be any dispute of facts regarding the nature as well as regarding the existence of an agreement such as is provided for. On this point I am directed to request that attention may again be directed to the remark made in paragraph 4 of my letter of the 28th ultimo, No. 1290.

5. The special provision in Section III. of the Act will point the Magistrate's attention to the general principle that fraud and force, and unlawful intimidation, vitiate agreements.

6. As the Legislature allows no appeal from the decisions of Officers vested with powers under this Act, it becomes doubly incumbent on Commissioners to keep themselves constantly informed of the manner in which these Officers discharge the very difficult and responsible duty now imposed upon them, and of the principles by which they are guided in their decisions. These powers, and the opportunity of acting upon them, must not be retained for a day in the hands of any Officer who may show himself not competent to exercise them in such a manner as to do full and substantial justice to all parties.

7. The Act will have effect from this date ; but under Section XI. public Officers are indemnified from any acts done before the 4th instant, which would have been justifiable under the Bill as read on the 24th ultimo.

8. One hundred copies of the Act in Bengalee are herewith forwarded to you, and should be circulated.

No. 2.

From A. R. YOUNG, Esq., Secretary to the Government of Bengal,  
to the Commissioners of the Nuddou and Rajshahye Divisions,  
Nos. 1273 and 1274,—(dated the 27th March 1860.)

SIR,—I AM directed to draw your immediate attention to the Bill to enforce the fulfilment of Indigo Contracts, which was read a first and second time in the Legislative Council on Saturday last.

2. This Bill, as it is framed, when passed into Law, will take effect from Saturday last, the 24th instant, and the Lieutenant-Governor directs that its provisions be immediately enforced by Magistrates, as though the Bill were Law at this moment. The wording of the Bill shows that this is the intention and object of the Legislative Council.

3. The provisions of this Bill, so far as they affect the Ryots, must be very carefully explained to them. In the Lieutenant-Governor's opinion explanation will be best made by the several Thannadars, each in his own Thanna.

4. With this view it will be proper for you to issue forthwith through your subordinates, for promulgation in all those places where any excitement or unusual feeling in relation to Indigo Planting exists, a notice in conformity with those provisions.

5. It must be stated that it is the desire of Government that those Ryots who have received cash advances, upon their agreement to cultivate Indigo during the current season, shall honestly fulfil that agreement. It must be explained that any such Ryot who refuses or delays so to fulfil his agreement, shall be liable to be brought before a Magistrate, on the complaint of the Indigo Planter who made the cash advance; and if the Magistrate, after hearing both parties and taking evidence, decides that the Ryot has broken his agreement, that Ryot may be

ordered immediately, in presence of the Magistrate, to pay five times the cash advance, and if he has had seed advanced to him, five times the value of the seed, failing which, he will be sent to Jail, whilst the amount of the fine will be levied by the sale of his property. This, it may be said, is the order of Government.

6. It should, moreover, be explained that any person who shall by threats or otherwise attempt to prevent Ryots who have entered into contracts of the above nature from fulfilling those contracts, or who shall conspire with others in any such attempt, shall be punished by fine or imprisonment or both; and any person who shall maliciously destroy or damage, or shall conspire or attempt to persuade others to destroy or damage, any growing crop of Indigo, shall be similarly punished.

7. But it must also be explained, that the order extends only to the current season; and it is the intention of Government before the period of taking advances for next season arrives, to institute searching inquiry into the cause of the disputes between Indigo Planters and Ryots engaged in the cultivation of Indigo, and to pass such further Laws and Orders as will ensure to both parties their just rights, and shall remove any reasonable causes of dissatisfaction which the Ryots may have to show. With this object a special Commission of Inquiry will very soon be appointed.

*(To Commissioner of Nuddea)*      *(To Commissioner of Rajshahye.)*

8. It is very desirable that wherever there is a large Indigo cultivation, and the probability of numerous disputes regarding Indigo agreements, there should be in the close neighbourhood an Officer at hand to carry out this new Act, and with this object three additional Officers with full Magis-

8. It is very desirable that wherever there is a large cultivation, and the probability of numerous disputes regarding Indigo agreements, there should be in the close neighbourhood an Officer at hand to carry out this new Act. All Officers having full powers of a Magistrate who are now in your

*To Commr. of Nuddea.—Continued.*

terial powers have recently been placed at your disposal, and can be located wherever you consider they are most likely to be required; other Officers now in your District are of course also available for the same duty. If any of those Officers who have not now full powers are, in your opinion, competent to decide cases under this Act, they will be specially vested with the requisite powers for this particular purpose, on your recommendation. You will bear in mind what was said in a late letter regarding the necessity of giving every Officer deputed into the interior of a District where excitement prevails, a sufficient Guard of Military Police to maintain his authority.

*To Commr. of Rajshahye.—Continued.*

Districts, are of course available for this duty, and can be located as may seem to you advisable. If any other Officers, who have not now full powers, are in your opinion competent to decide cases under the Act, they will on your recommendation be specially vested with the requisite powers for this particular purpose. Mr. Furrell, of the Aurungabad Sub-division, has this day been vested with those special powers. Should you require an additional number of Officers to give effect to the Act in any District you should lose no time in applying for them. It is necessary that every Officer deputed into the interior of a District for the purpose of carrying out this Act, should be attended by a sufficient Guard of the Military Police to maintain his authority, and to put down immediately any disturbance.

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No. 3.

From A. R. Young, Esq., Secretary to the Government of Bengal, to the Commissioner of the Nuddea Division,—(No. 1838, dated the 10th April 1860.)

SIR,—I AM directed to acknowledge the receipt of your letter No. 100ct., dated the 18th instant, enclosing Mr. Horschell's seventh Weekly Report on the state of the Indigo Districts in Zillah Nuddea.

In this special reference is made to the working of the new Law, which, Mr. Herschell observes, has been much misrepresented by the Planters to the Ryots, the sentences passed under it being held out as threats over the latter, with a view to coerce them to take advances. You seem to think that there is good ground for this belief.

The Lieutenant-Governor is confident that if, as represented by Mr. Herschell, the Planters are straining the Law "to invest it with greater terror than it really has," you will see that the Magistrates effectively prevent such abuse.

The circumstances you report, that some Ryots have entered into agreements and taken advances since the promulgation of the Law, is remarkable. It proves at least this, that *all* the Ryots who used to cultivate Indigo were not, as a matter of course, under agreement to cultivate this year, and therefore great care is requisite in requiring proof of the agreement whenever the fact is disputed, otherwise grievous injustice may be done.

Mr. Herschell states, that in the cases which have been tried, the evidence for the Factories was their own books, as to the payment of advances, and the oath of one of their own native servants, whilst no other defence has been put forward than a simple but steady denial of the *receipt* of advances by the Ryot. The Lieutenant-Governor makes no doubt that the cases were decided in conformity with substantial justice, and presumes that in this, as in all other Civil actions now, the Defendant is allowed to give his own evidence on oath, as well as the Plaintiff and his native servants. But the manner in which the trials are spoken of makes this a little doubtful. If the case be not so, then justice is not done. When the Defendant's oath contradicts that of the Plaintiff's native servant, the obvious duty of the Judge is to seek out, by all means, independent evidence, to show which story is the more credible. This duty, is to be hoped, is never neglected.

The Factory books show that advances have been charged to the owner of the Factory; but it is not stated that they contain the receipts of the payees; and it is not stated what the evidence of the European

assistant who signs them, shows regarding the system of payment and entry.

These omissions in Mr. Herschell's Report of the general character of these trials, the infliction by Mr. Mackenzie of the extreme penalty for the first case ever tried under the new Law for destruction of Indigo, and the unexplained sentence of a legal Agent of some Ryot apparently to imprisonment for six months, show the necessity for the earliest possible revision by you of these proceedings, in order to make it quite sure now, and to be able to make it manifest hereafter, that the principles of equity and moderation are observed by each Officer entrusted with extraordinary powers granted by the new Law.

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From A. MONEY, Esq., C. B., Officiating Secretary to the Government of Bengal, to the Secretary to the Government of India, Home Department,—(No. 4356, dated the 22nd August, 1860.)

SIR,—With reference to your letter No. 1374, dated the 27th ultimo, and the Petition from the Bengal Indigo Planters' Association, which accompanied it, I am directed to forward, for the purpose of being laid before His Excellency the Governor General in Council, a copy of a Minute recorded by the Lieutenant Governor on the subject of the complaints and remarks contained in the Petition.

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Minute.

I AM sorry that an illness of a few days' duration, which made it difficult for me to do more than dispose of current business, too important and too urgent to bear any postponement, has delayed my answer to this complaint longer than was desirable.

2. The general charge made against me by the Bengal Indigo Planters' Association is, that since my appointment to my present Office I have acted in such a way as to throw nearly the whole of the Indigo Districts, and especially Kishnaghur, into confusion; and the general prayer of the Memorial is, that I be restrained from pursuing a course of conduct alleged to be ruinous to the Indigo Planters of Bengal; that the impropriety, illegality, unconstitutional character, and especial indiscretion in relation to a dispute alleged to be between capital and labor, of interference with the due course of the administration of the Law by the regularly appointed Judicial Officers imputed to me, be pointed out and checked; and that His Excellency in Council will pass such further orders as may seem proper.

3. It is assumed in the commencement of this Memorial that His Excellency in Council, in consequence of His Excellency's absence in the Upper Provinces until the 22nd of May last, may not be minutely acquainted with the origin of what the Memorialists call the disturbances in Kishnaghur and the adjacent Districts. It is enough to say upon this, that every proceeding of the Bengal Government, since the difficulties of the Planters were first represented to me, early in March, has been reported in full to Her Majesty's Secretary of State, through the Government of India, at first by every weekly Mail, and latterly by every fortnight's Mail from Calcutta.

4. To the general charge of having acted in such a way as to throw nearly the whole of the Indigo Districts, especially Kishnaghur (or Nuddon) into confusion, it may perhaps be enough to reply, by stating the undeniable fact, that those Districts are not in confusion. It is unquestionable,



that whilst there is a great disagreement and much ill will between the manufacturers of Indigo, and the producers of the raw material, the Indigo Districts, and Kishunghur especially, in every general sense, are perfectly tranquil. At the commencement of the excitement there were two affrays, one in Moorshedabad and one in Pubna, and there was great risk of a serious and extensive disturbance breaking out, caused by the animosity of the Ryots against the Indigo Factories, in many places. But a timely display of force, sent into these Districts for the general purpose of maintaining order, and for the special purpose of protecting the interest which is now complaining of injury from Government, prevented all breach of the peace, and saved the Indigo Factories. The best Magistrates available were placed over the excited Districts, and by their exertions, supported by an adequate force, a dangerous crisis was passed over without disturbance of the general quiet. To talk of Districts being in "confusion," because of a commercial disagreement between two classes concerned in one particular trade, when the Law is in full force, and when, practically, the life, property, rights, and personal liberty, even of the humblest cultivator were never before more secure than they now are in these Districts, is not, I think, justifiable.

5. There are no affrays, no forcible entries and unlawful carrying-off of crops and cattle, no ploughing up of other men's lands, no destruction of trees and houses, no unlawful flogging and confinement in godowns, now reported. Even the offence of kidnapping Ryots seems almost arrested. One Factory\* Comashta in Pubna is now indeed under trial for it; but since the abduction of Scotul Turaidar, whose death, under circumstances which appear to make the whole

affair amount to murder, occurred about July 1859, I have not heard of a single case of lawless violence in Nudden.\* Even in matters relating to the present commercial disagreement, Law and Justice prevail. The persons and property of Planters are everywhere inviolate; and whilst, on the one hand, Planters do not carry off by unlawful force Indigo Plant in the lawful possession of other people; on the other hand, if they have advanced a single copper pice for any Indigo Plant, to which they have a claim under a contract, but of which they have a difficulty in obtaining delivery, they have now the means of establishing the fact, and obtaining possession legally in three or four days. Where no contracts and advances are established, we have reports of Planters and their European Assistants going about themselves amongst the Ryots, and actually paying for the Plant, to the owner's content, in cash on the field. This healthy state of things is novel indeed; and if Government is accused because it is novel, I will not defend Government on that charge. But I cannot admit that this practical introduction of the supremacy of the Law into the Indigo Districts is evidence of "confusion."

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\* Since this passage in the text was written, I have received a report of an outrage which occurred last month in Jessore. According to the Commissioner's Report of this case, a band of twenty-five Lutials were assembled in an Indigo Factory, and marched in broad daylight to carry off a certain obnoxious and influential Ryot from his village. /The party attacked had warning, and defended themselves./ An affray occurred, in which the Ryot whose abduction was designed was killed by three spear-thrusts, and three other men were wounded, and are still missing. Seven men have been apprehended, and will be tried for this offence. This is a lamentable affair, but unfortunately there is nothing new in the case; and certainly it is not an instance of violence of which the Indigo Planters' Association can complain, or which can be attributed to Government.

6. I must notice another misdescription in this Memorial. The commercial disagreement in question is designated a dispute between capital and labor, and I am accused of especial indiscretion, on the ground that such is the character of the dispute. I am aware of no such dispute. Some few instances have been reported to me in which manufacturers of Indigo have found difficulty in obtaining a sufficient number of Coolies, and sufficient Boats and Carts; but in all these cases the difficulty was overcome, eventually, by the good sense of the parties, and sometimes with the help of the good offices of the Magistrate, in the natural and proper way of an adjustment of rates. The disagreement actually existing is between the manufacturers of the Dye, and the producers of the Plant, which is the raw material of the Dye. Both classes are capitalists; and so far from it being true that the capital of the producers is so small, comparatively, that they may be truly described, for practical purposes, as laborers, their capital, *in the aggregate*, infinitely exceeds the capital of all the manufacturers of Indigo Dye. The capital of the Ryot is in his land, his crops, and his cattle, and in very many cases in his means of hiring laborers, over and above the value of his own bodily labor. The whole cultivation of Bengal is in his hands; and the ruin of this mighty interest would be the ruin of the country. The capital of the manufacturer of Indigo Dye is partly in his manufacturing premises and utensils, and in his means of hiring laborers, but mainly in the debts due to him by the former class of capitalists, namely, the Ryots. If the Planters should suffer losses, there is no one who would more sincerely deplore the circumstance than I should; and there is no one who desires more than I, to do everything to assist them that justice and fair deal-

ing with the rights of others, and the principles of freedom and of sound commercial policy, will permit. But as a national interest, the owners and cultivators of the soil must be ranked second to none in an agricultural country like India.

7. Both the interests involved in the present disagreement are capitalists of great national importance; and both should be treated, not only with justice, but with consideration. A Government which should approach the question with any less impartial view of it than this, would err, as much in point of sound economical policy, as in point of fair dealing. It is proof enough of a mistaken view of the whole question, on the part of the Memorialists, who complain of my proceedings, that they make it a part of their charge that their disagreement with the class which either owns or farms all the land in Bengal, is not "discreetly" treated as a dispute between masters and laborers.

8. I now proceed to discuss the specific points of complaint affecting myself taken in this Memorial.

9. The first of these that I can extract is that on the 7th of April 1860, I pronounced an opinion that Mr. Eden, who had been called upon to explain the publication by a Police Darogah in Baraset of a certain Perwannah, supposed to have been ordered or approved by him, had given a satisfactory explanation on that point; satisfactory, that is, so far as he was concerned in the affair, notwithstanding that three other gentlemen had unanimously condemned Mr. Eden's indiscretion. Seeing that Mr. Eden, in his explanation, showed conclusively that the publication was made a month after he had given over charge of the Magistracy, and had

left the District ; that he neither ordered, authorized, approved, or knew anything about the Perwannah, and that he first saw it in the newspapers, I do not see how I, or any reasonable person, could have pronounced Mr. Edon's explanation regarding this publication as anything but satisfactory.

10. The second specific ground of complaint is, that I caused a report to spread throughout the villages, about the beginning of February, on my return from a tour through the Indigo Districts, to the effect that the Government was opposed to the cultivation of Indigo ; and that this was caused by my having formed and openly expressed an opinion hostile to the system of Indigo Planting, such formation and expression of opinion being the more wrong, inasmuch as afterwards (namely in the earlier part of March) I plainly stated to a Deputation of the Association that I had never had any experience in the Indigo Districts, and was very ignorant on the subject. The Memorialists do not name or allude to any one as having ever heard me express an opinion hostile to Indigo Planting, and they do not mention any time or place when and where such an opinion was expressed by me : they merely state their belief in the imputed fact of the formation and open expression by me of the opinion in question, and in the assumed consequence thereof in the village report abovementioned. But they adduce in proof of the fact, and of its consequence, this argument, —that in a letter of mine to Mr. Seance, dated the 23rd of March, wherein, on the application of the Memorialists, I proposed to the Legislative Council the passing, in their favor, of a special Law for the enforcement of Indigo contracts, with the stipulation that it should be followed, as prayed for by them, by a Commission of Inquiry into the

whole system of Indigo planting, I wrote the following words, *viz*:—"I am myself of opinion that the Indigo cultivators" (meaning the Ryots) "have, and long have had, great and increasing ground of just complaint against the whole system of Indigo cultivation."

11. I do not see how this quotation proves either the open expression of opinion imputed to me in and before February, or the consequences inferred from that supposed fact. But as the printed Book, from which only the grounds of the Memorial can have been taken, contains two denials by me, addressed to two gentlemen interested in Indigo, of my having ever expressed any opinion which could have given rise to any such village report as is mentioned, I think I have fair ground to complain, if not of the belief of the Memorialists, in support of which they can advance nothing, at least of their publishing that belief now, without any mention of the fact of my having formally denied all ground for its existence.

12. I must observe that the whole passage in the Memorial of which I have given the substance above, is thoroughly wrong in matter of fact. I did not return from any tour in the Indigo Districts about the beginning of February. I returned on the 10th of March from a tour of ten weeks, not in the Indigo Districts, but in Southern Behar, namely, through the Chota Nagpore Country, and the Gynah, Arrah, and Patna Districts, from which I returned by way of Monghyr, Bhaugulpore, Rajmehal and the Line of Railway. In the whole course of that tour, I had no occasion to express in conversation any opinion on the subject of Indigo; and every written communication from me on that subject is printed in the Blue Book. I had no oral com-

munication with any one in the course of that tour concerning Indigo, till I arrived at Rajmehal, about the end of the first week in March, when the District Officer there informed me of the assault on the Factory Gomashlah near Ayrungabad. I have never made what can be called a tour in the Indigo Districts ; but in August and September last year, I made a tour in Eastern Bengal by water ; in which I touched for two or three days at the Sudder Stations of Kishnaghur and Berhampore, amongst others. Nowhere in the course of that tour had I any conversation about Indigo, other than a few ordinary words with Planters about the crops. Many written petitions were given in to me by Ryots of Nuddea, a large body of whom followed me to Berhampore for the purpose ; and I learnt then that the Natives in Nuddea were dissatisfied with the Magisterial treatment in that District of their complaints against Planters. All those petitions were disposed of by the written orders which will be found printed at full length in the Blue Book ; but neither at Kishnaghur nor elsewhere did I express any opinion on the Indigo question, or on that occasion speak on the subject to any Native.

13. Thus not only is the belief of the Memorialists mistaken ; the whole body of supposed facts on which it has been formed is wrong.

14. There has been some misunderstanding of a remark I made to the Indigo Planters' Deputation in March last. I remember saying that I had never had any experience in an Indigo District ; and I have no doubt that I disclaimed all knowledge on the subject of Indigo from personal observation. But I am sure that I did not say that I had no knowledge on the subject derived from others. I know per-

fectly the Native opinion on the subject; and I had had a peculiar opportunity of becoming more fully acquainted than most Public Servants with the common abuses in connexion with Indigo, *in all Districts*, so far back as in 1835, when I was employed in digesting a mass of reports from every Indigo District in Bengal, which reports led to the repeal, under the orders of the Home Government, of Section III. of Regulation V. of 1830; and when also all the remonstrances from Indigo Planters against that measure came under my eye. As to my letter to Mr. Seance, the opinion therein expressed was founded upon facts which were known to every body, and were denied by nobody.

15. I have never formed or expressed but one opinion on Indigo Planting. This opinion is, that so far as it is conducted justly, and lawfully, in accordance with the rights of all parties, upon sound commercial principles, and by the free will, and to the mutual benefit of all concerned, like the trade in other staples, it is a source of national wealth, deserving of the same high consideration as all other great branches of trade. But so far as it is conducted unjustly or unlawfully, in disregard of the rights of any class, upon the false principle of a forced cultivation, unprofitable or oppressive to the cultivator of the raw material, it is an evil of great magnitude, whether in its political or in its commercial aspect, and one which urgently requires correction. This correction, whenever actually required, I have always thought, and I continue to think, will be self-acting and complete in the natural course of things, under a legitimate, vigorous, and truly impartial Magisterial action, which, leaving disputes in Civil cases to be settled by the constituted Civil tribunals, abstaining from all support of either party not warranted by the Law, and founding itself wholly



on the Law, will give that equal protection from unlawful violence to both parties, in practice, which the Law in theory has always intended.

16. I accept all responsibilities for holding this opinion, and for acting upon it, so far as the occasion required, whenever the necessity of so doing has been forced by circumstances upon me. I have insisted that unlawful violence, on any pretence, shall be prevented or prosecuted to punishment by the Police, without respect to persons, or classes, or complexions. I have objected to the Police forcing unlawfully, or assisting or protecting others in forcing unlawfully, any unwilling person to cultivate any sort of crop whatsoever; and I have insisted that the Police shall not support one man in unlawfully sowing another man's land by force, on any plea whatsoever. There is nothing new in this doctrine, which has been the Law of the country for seventy years; and there ought to have been nothing new in the practice. If the announcement or enforcement of such very plain and long established principles of Police Law has really had any effect upon the Indigo system, the effect can have been only corrective of evils which should have been corrected long ago.

17. The next specific point of complaint in the Memorial is, that I have interfered, to the prejudice of the Planters, with the Local Authorities in carrying out the temporary Act passed for the enforcement of the current season's Indigo contracts; but for which interference, it is contended, all differences between the manufacturer and the agriculturists [the capitalist and the laborer are the terms used in the Memorial], would have been settled to mutual advantage, like every other commercial arrangement, upon the simple question of price. Now there is nothing, and there

never has been anything in the whole dispute, but "the simple question of price." If the Planter had paid, in cash, such a price for Indigo Plant as would have made it more profitable to the Ryot to grow that crop than any other, abstaining also from all molestation of the Ryot by himself or his servants, no one pretends that the Planter would not have got, year after year, as much Indigo Plant as he could pay for. If Planters generally had acted, in the matter of Indigo, upon the principle of giving a remunerating price, the Ryots would have been anxious to sow, instead of declining to sow ; and if the Planters were prepared to pay such a price, they would have had no more reason to fear a want of Indigo Plant next year, and in future years, than the Traders in Jute, Sugar, Saltpetre, Silk, or Oil Seeds, have reason to fear the want of those articles next year, and in future years. But the Planters' position, so far from being the position of free Traders, as here assumed, was this,—that, in consequence of an extensive refusal to sow Indigo, they had been driven to ask for a special Law, exclusively in their own favor, and of extreme stringency against the Ryot. The Legislature thought it right to pass such a Law, to be in force for six months only, under the sudden emergency which allowed no time for inquiry ; but it carefully put into the body of that Law a provision for the re-assurance of the Ryots, and to calm the alarm the Ryots could not but be likely to feel at being thus suddenly and specially legislated against, whereby a full and impartial inquiry into the whole system of Indigo planting was ensured before the next sowing season should come. As I would not have proposed, so also I know that the Executive Government of India would not have supported, a special Law against the Ryot, even of six months' duration, without such a provi-

sion, which promised, in effect, the redress of all proved grievances ; and I have not a doubt that the Legislative Council would not have passed any coercive measure at all, without such a provision. So strong was the feeling of the Legislature on this point, that whereas in the Bill presented to them mention of the Commission of Inquiry was only made in the Preamble, as the Council amended it, a large part of the body of the Law consists of provisions for the Commission ; and this was done for the very purpose of showing to the public, and to the complaining Ryots, that though existing lawful contracts must be enforced, an effective inquiry would be almost immediate.

18. On the passing of the Law containing that provision, it became the duty of every loyal subject desiring a continuance of the good feeling of the agricultural class towards Her Majesty's Government, and interested in the preservation of the peace of the country, to make the existence of this consolatory accompaniment of the Act as fully known, and as thoroughly understood, as the coercive portion of the Act. And this was very especially the duty of the Lieutenant-Governor of Bengal.

19. The first article under the general charge of improper interference, as far as I can analyse the Memorial in this part, is that, on the passing of the above Act, I directed its provisions to be very carefully explained to the Ryots. Unless the drift of this complaint is that I took measures to prevent any false impressions, such as would have unfairly helped the Planters, regarding the true design and actual effect of the Law becoming general amongst the persons subjected to its coercive provisions

\* See Mr. Herschel's seventh Weekly Report and Mr. Grote's Report of 18th April 1860, page 465 of the Blue Book.

(and it is on record that endeavours to induce such false impressions were not \*wanting),

I do not see any meaning in the complaint. If that is its meaning, it deserves no answer. The Law went no further than to provide a summary procedure, and a new tribunal, for the enforcement (by a stringent Civil process involving imprisonment) of lawful contracts in actual existence. I certainly would not have proposed, and the Legislature certainly would not have passed, any Law that went further than that. Even as it is, there are two opinions amongst disinterested persons as to whether any special Law against the Ryot was justifiable, under the circumstances, or not: and if the Law had gone a step further than the just and legal enforcement of actual contracts, there could have been, amongst disinterested persons, but one opinion about it. If it is meant that the Executive Government, whilst leaving to the Legislature the outward show and pretence of fair intention, should have quietly allowed the law to be understood in the *Mofussil*, and acted upon, as though it had been a Law to force Ryots, being Her Majesty's free subjects, to cultivate Indigo, whether they wished to do so or not, at prices fixed by the purchaser, though they might be under no obligation to do so, and though they might never have received a farthing of consideration,—such an act, in short, as no Legislature would have dared to put into plain words,—His Excellency in Council will not expect me to notice the complaint.

20. It is a part of the same article of charge, that I directed the Magistrates to communicate to the Ryots, "that it is the desire of Government that those Ryots who have received cash advances upon their agreement to cultivate Indigo during the current season, shall honestly fulfil that agreement." Now this is precisely what the Deputation of the Indigo Planters' Association, which had

had an interview with me, had asked me to publish to the Ryots, with the object of doing away with an impression

\* See page 354 of the Blue Book. To show the effect of such communications of the desire of Government, the following passage may be cited from a Report of Mr. Henschel's : " I went to one of the villages in the Khatholeuk Concern, where the Ryots refused to sow. On explaining the Law to them they submitted, it being clear that they had taken their advances. 'If that is the order of Government,' they said, 'of course we must sow.' This is the general feeling,"—Page 467 of the Blue Book.

which they believed to exist, that Government was opposed to Indigo cultivation; and it is precisely what I had said in a Notification published in accordance with that request.\* Yet this Memorial comes from the very same body, complaining of that being said in a letter to the Magis-

trates, which, at their own prayer, had just before been published in a Proclamation.

21. Again, it is complained that in paragraph 9 of the Secretary's letter of the 27th of March 1860, it was pointed out to the Magistrates, for the information of the Ryots, "that the Act was only to apply to the current season, thereby keeping alive in the minds of the Ryots a feeling of excitement that a discreet Magistrate if left to himself would have known how to avoid." The meaning of this must be, that although the Legislature had passed only a Law for the moment, and had most carefully provided that the Law itself should show that measures to ascertain, before next season, if any actual grievance required remedy, had been resolved upon, and had thereby unequivocally committed itself to the adoption of any remedy required, nevertheless I was to blame for not concealing this formal promise from the class for whose re-assurance it had been made. After what I have said above, I need not say more on this point, than that if this promise had not been published, and the fairness of the designs of Government had

not been made known, I believe that the Government would have had a very different sort of excitement to meet than one involving only the peaceful refusal of one party to strike a bargain with another party, for next season's Indigo. I believe that, but for the measures taken, combining the reassurance of the people in the just intentions of Government, with a prudent show of force, there would have been a movement in which the Planters would have been the first but not the only sufferers.

22. The next article of specific complaint is, that in the Secretary's letter of the 4th April 1860, I held out a threat of removal if any Magistrate interpreted the Act contrary to my views. This is a misrepresentation. I never held out such a threat, or said anything that can be made to have the appearance of such a threat. I have not even in any single instance interpreted the Act, or expressed to any Magistrate my views as to how it ought to be interpreted, upon any point. I have pointed attention to the provisions of the Act *seriatim*, as plainly expressed in the Act in unequivocal terms; but I have never myself inter-

"On the first issue of the new Law, it certainly was very generally understood by the Police to signify that Indigo was to be sown this year just as usual, and although the meaning of the words (The original con- 'rush advances' phidat) very speedily got known, the proviso was such a clog on all attempts to adopt general measures, that it was practically put out of sight, and if possible it would have been shirked. But the Ryots had perceived their advantage, and used it. I early noticed that the Police generally were attempting to override the Law by expounding it in their own way to mean simply 'sow.'"

preted the Act, or any part of it. How necessary, as it has since been proved, it was at that time of excitement to draw attention strongly to the several provisions of the Law, as it actually stood, will be seen from the extract in the margin, taken from a late Report by the Magistrate of Nudden. I have inculcated the duty, in every really con-

tested case, of a careful sifting of evidence on both sides, and of an attentive consideration, in a true spirit of equity, of every case, where the fact of a contract with advances was at issue; and I am sorry to say that I shall have to show that this caution was very far from being needless. But I have never said a word which was not as much in favour of the Planter, when his cause was just, as it was in favour of the Ryot, when his cause was just.

23. The position was in all respects peculiar. For the sake of the Planters, at the moment the Act was passed, time was everything. A large number of Officers with Magisterial powers were required, all to be set to work at once, otherwise the object would be lost. There were no Officers with Magisterial powers existing, who had any the least experience in Civil Judicial business; and many of the only Officers available to me were gentlemen of little experience in any business; whilst of no one of them, all being wholly untried in such business as was suddenly put upon them, could it be certainly predicted that he was qualified for the new and very peculiar task. At the same time the duty, being the rapid trial of equity suits without appeal, was in itself a difficult one, requiring much more than usual calmness and caution, by reason of the excitement, clamour, and misrepresentation, on all sides, which prevailed. With all this, on the justice of every decision might depend the question of the profit or incalculable loss of the Factory, and the question of the comfort or the imprisonment and beggary of the Ryot. From a very limited number of available Officers, I chose those who seemed to me the most likely men to do this new duty well. But being responsible for having tried these Officers at this new work, I should have been inexcusable if I had retained one of them at it after he had

shown that he was not qualified to do it, which many Officers, good enough in their ordinary line, would be likely to prove to be. It was thought necessary, for the object of the Law, that the causes in question should be tried without appeal; but it was not necessary, for any object, that they should be tried by Officers who proved to be disqualified for the duty.

24. I did not attempt to review the work of these

Officers myself. The Commissioners of Divisions, who are gentlemen of eminent qualifications, and of long experience, were directed carefully to watch the Judicial action of the young Assistants and the Deputy Magistrates employed. I give in the margin the passage in my orders, which the Memorialists describe as a threat of removal to

any Magistrate who should interpret the Act contrary to my views.

25. The Memorial next complains that in laying down Rules for the interpretation of the Act, I have exceeded my powers, and trespassed on the province of the Legislative Council and the Judicial tribunals. But the assertion that I have ever laid down Rules for the interpretation of the Act is contrary to the fact. A perusal of the records will show that, as I have above stated, I have never expressed so much as an opinion regarding the interpretation of the Act. The Law allowed of no appeal;



therefore there was no person who could pass any interpretation of the Act, or could inform the Magistrates on points on which they doubted, and asked for information, or could correct errors, or could keep the Magistrates together in any consistent course, with Judicial authority. But the Magisterial Officers, though inexperienced in Civil business, were desirous of acting according to Law, and were reasonably and conscientiously willing to learn the Law from high legal authority. On points, therefore, on which they doubted or differed in opinion, or acted on what appeared questionable principles, I have several times obtained, and circulated for their information, in a general form, the opinions of the Advocate-General, to which it is but right to say that these Officers have always attached due weight. These opinions have been sometimes in favor of the Planter, and sometimes in favor of the Ryot; but always very much to the benefit of the interests of Justice. But, for myself, having no power to interfere with the Civil decisions, I have neither attempted to interfere with them, nor expressed to the Magisterial Officers any opinion on their merits, one way or the other.

26. The next complaint is that I have made the Act wholly useless for the purpose which the Legislative Council had in view, by an improper and indiscreet interference with the sentences passed by Magistrates under the Penal Clauses of the Act. In these cases also there was no appeal; but in them, as in all criminal sentences, the Government has the power of mitigation, or remission; and this power involves the duty of exercising it on proper occasions. The absence of an appeal of right made it incumbent on Government to see that, at a

moment of great clamor and excitement, the great irresponsible power vested for the most part in young and inexperienced Officers, was not abused by systematically hasty, and, consequently, unjust convictions and sentences; and to provide that the only possible remedy of any such sentences as might be passed, should be applied by means of the remitting power of Government. The Commissioners of Divisions were therefore instructed to keep an eye upon the general action of the Magisterial Officers. This was done most efficiently by those experienced and able Officers. When they found that a prisoner had been convicted unjustly, or had been punished with very excessive severity, they reported the case to me, with their recommendation for remission or mitigation. Except upon the recommendation of one or other of those experienced Officers, I have never mitigated or remitted a single sentence. It will be in the recollection of the Honorable Members of Council, that, in discussions preceding the passing of the Law, this very safeguard was stated as a reason for not allowing, as in all other cases, an appeal of right under this Act.

27. I say confidently, though I say it with regret, that but for the exercise of this power, and the check which some calls for explanation in some very glaring cases of carelessness imposed upon systematically hasty convictions, unsupported by law or by evidence, and in some instances by either law or evidence, great injustice would have been committed in the Criminal department, a justifiable spirit of hostility to Government would have been excited in the people, and much disgrace would have been incurred by the British Administration. The records are open, in proof of this assertion.

28. The case of the Mookhtar or Attorney of certain Ryots, imprisoned by Mr. Deputy Magistrate Betts, selected for mention in the Memorial as the best case against Government and the Commissioners, is perhaps as striking an example as I could myself have selected of what would have happened, but for the watchfulness of Commissioners. That Mookhtar, at the complaint of a Planter who was about to prosecute Ryots for breaches of alleged contracts which they denied, was sentenced by Mr. Betts, after a trial which, from the record, could not have lasted ten minutes, for what was no offence at all, on evidence of what was no offence at all, to six months' imprisonment and a fine of 200 Rupees, and in default of payment to a further imprisonment of six months.

29. The Deputy Magistrate had been so hasty, and his bias towards conviction had been so strong, that he did not stop to look at the Law to see what act constituted an offence under it. Of course, after that flagrant case, the Ryots of that quarter could obtain the services of no Legal Agent to defend their causes; and the Prosecutors for several days had it all their own way. There was another Mookhtar in another place similarly treated. It is made by the Association matter of formal complaint against me, that I remedied this injustice as soon as it was reported to me by Mr. Grote, the Commissioner. The release of a Mookhtar who had committed no offence, and his return to defend in lawful course the causes of his clients, is one of the ways in which it is said that the Act has been made inoperative, and more harm has been done than can be imagined. I am quite sure that the Association have adopted, as a body, an argument which every single Indigo Planter who belongs to it would disdain to use in his own case. No individual

Planter, I am satisfied, would say that he desired the Ryots to be himself prosecuted to be deprived of all legal advice by sending their Mookhtars for no offence to prison.

30. I append a Statement of all the remissions and commutations that have been made, with remarks. The number of prisoners who benefitted by these reviews is 126, of the unjust imprisonment of very few of whom could a plausible doubt be raised; and when it is known that at one time the Jail of Nuddea alone held no less than 588 prisoners, confined at the prosecution of Planters under the Indigo Act, (so as to oblige me to empty it of ordinary Criminals,) the number of innocent prisoners released at the recommendation of the Commissioners will not seem so large as to justify the dissatisfaction of the Association. It appears to me that there are no grounds for asserting that a sufficient number of respectable Ryots have not been incarcerated under the Act, to make an example.

31. The next specific complaint made is, of the alleged removal from the Indigo Districts of Messrs. Betts, Mackenzie, Macneill and Tayler. Of three of these gentlemen it is not the case that they have been removed either from the Indigo Districts, or from the most excited part of those Districts. When the Indigo Act was passed, it was necessary immediately to place an Officer with full powers in the neighbourhood of all those places where numerous suits were expected to be filed; and amongst the Officers selected for this purpose were Mr. Mackenzie and Mr. Tayler for Nuddea. When Mr. Mackenzie's services could be spared from Nuddea, he was appointed to the charge of the Sub-Division of Narail in Jessore, and when Mr. Tayler's services could be spared in Nuddea, he was sent to his own Sub-Division.

of Magoora, also in Jessore. At both of these Sub-Divisions, which are in the thickest of the Indigo country, Sub-Divisional Officers were urgently required, in consequence of the Indigo excitement. So far from being removed from the Indigo Districts, these gentlemen were posted at two of the most important points in them, and were promoted to Sub-Divisional charges. Mr. Maeneill stood appointed to the Sub-Division of Bongong, in Nudden, and when his services were no longer urgently required there, and were urgently required at the Sudder Station of the same District, to fill the vacant Office of Joint Magistrate and Deputy Collector there, he was promoted to act in that Office.

32. Mr. Deputy Magistrate Betts had been taken temporarily from his Sub-Division, at Diamond Harbour, to do duty under the Act, in the interior of Nudden. In consequence of the hastiness and want of judgment and attention which he manifested in his proceedings, whereby injustice was done, the Commissioner, Mr. Grote, ordered him into the Sudder Station,—an act of which I entirely approved. As experience had shown that the services of Mr. Betts could not be unobjectionably employed in proceedings under the Indigo Act, he returned to his own Sub-Division, and to the ordinary line of his duty. It was Mr. Betts who committed the grave error of imprisoning the Mookhtar, on a charge of what was no offence,—an error which caused much local excitement, and involved the Administration in much local discredit till it was rectified. It is unhappily too apparent that Mr. Betts' return to his ordinary line of duty was not too soon; for it has since, quite accidentally, come to my knowledge, that in one of his Civil cases, he gave the Planter a decree against the Ryot, on a written agreement purporting to have been made in 1856, executed on stamped paper

which, on inspection, proves to have been sold in 1859. When it is remembered that the absence of appeal makes redress in these Civil cases impossible, however glaring the injustice done; and that on such false suits as this, thus hastily decided, respectable Ryots, in comfortable circumstances, are sold out of house and home, sent to prison, and reduced to beggary, no human power existing to remedy the wrong; can I be justly blamed for having done from the first my utmost to secure both parties from liability to suffer under such hasty decisions?

33. It is not open to the Indigo Planters' Association to complain of my removing from the Indigo Districts a Magisterial Officer, on the ground of his being wanting in the qualities necessary for the proper discharge of the duties required of such an Officer, at this critical time. For this very same body, on this very same ground, lately petitioned me to remove from this very same District of Nuddea, Mr. Herschel, the Magistrate. Considering the circumstances of the time, this application appeared to me quite reasonable, provided the facts assumed were established. Mr. Herschel's official position was much higher than that of Mr. Bett; but I immediately called upon him for an explanation upon the points on which exception was taken to his acts; and I directed the Commissioner to report upon them, and upon the general character of Mr. Herschel's proceedings. Upon receipt of the explanation and report, I carefully went into them point by point. The result, as it happened, was highly creditable to Mr. Herschel; and all the complaints proved to be without any sound foundation. But if the result had been otherwise, I should certainly have acceded to the prayer of the Association, by transferring that Officer to some more quiet District. It will not be contended that unqualified

Officers should be removed when the complaint comes from one side, but should not be removed when it comes from the other side. Yet unless this principle is contended for, the complaint by the Association of the removal of Mr. Betts is as little to be justified as their complaint of the removal of the three other gentlemen named, who have not been removed.

34. Again, it is complained in the Memorial that I substituted two experienced Principal Sudder Ameens, for the young Assistants and Deputy Magistrates, in the trial of the *Civil* suits under the Act. This measure was recommended by the Commissioner, and was carried into effect when the sowing season was over; and when, therefore, there was no longer any object in very rapid decisions of these Civil suits. Such decisions could no longer have any effect on Ryots other than the parties in the suits; and if the Plaintiffs got their decrees and execution by the end of the season, they would be compensated in good time for the loss of the Plant. The ordinary business of the Nuddoa District was getting into excessive disorganization, by nearly the whole time of its Magisterial and Revenue Officers being occupied in these Civil suits, which were quite foreign to the proper functions of these Officers. Under these circumstances, I requested the Sudder Court to select two Principal Sudder Ameens to try the remainder of the Civil cases, leaving to the Magisterial Officers all trials under the Penal Clauses of the Act, as a part of their proper business.

35. The objection taken to this measure is that Prosecutors have complained, not that in any single instance a claim has been improperly rejected by the Principal Sudder Ameens, but that their claims, when sub-

mitted to these experienced and able Civil Judges, are thrown out of Court to such an extent that the Planters have found "the absurdity of continuing to institute suits under the new Act." As it is impossible to contend that the young Assistants and Deputy Magistrates, who had had no Civil Judicial experience, tried Civil causes more properly than selected Principal Sudder Amceens, who have been at that business all their lives, and who, in their own line, try irreproachably Civil suits unlimited in amount, in cases that go eventually before the Privy Council, I can only treat this as a complaint by Plaintiffs, who may win and cannot lose, of having to bring their causes before good Judges. It must doubtless have been agreeable to Planters when their suits were tried in such a fashion, that decrees were obtainable on agreements purporting to be four years old, though written on Stamps which were in the Vendor's shop one year ago. But I do not admit that I am to blame for a measure, an incidental effect of which has been the trial of suits in a thorough manner, because the majority of claims have broken down under such a trial.

86. It is indeed too true that, before the Principal Sudder Amceens took up these suits, decrees against the Ryots upon alleged contracts and alleged cash advances, were rapidly obtained in large numbers; and that since that time, on the very same sort of evidence, the same sort of claims have been for the most part rejected, upon the question of fact. But the reasonable inference is, that the fault was rather in the decisions of the inexperienced Officers, who decided in a hurry, at a time of great excitement and clamour, when the question of sowing was at issue, than in the experienced Judges, who decided at leisure, when there was nothing to distract their minds from



the plain question of fact involved in each case. And unhappily the injustice done by the hasty decisions of the former period is not left to mere inference. I have mentioned one striking case, accidentally come to notice, but it is little worse than several others. I have information of a Ryot who was imprisoned for three months, but against whom no award was ever given; and of another, all whose property was sold in execution, though no decree was ever passed against him, and no proclamation of sale was ever issued. The Indigo Commissioners found two Ryots imprisoned under this law, in Nuddea Jail, who were stone blind, and who therefore could not have contracted to cultivate, and could not have cultivated if they had been under contract to do so. All the damages given at first were infinitely higher than they ought to have been, being more than double the *maximum* penalty universally entered in Indigo contracts, wherever such contracts in writing exist. One of the largest and most respected Planters in India has himself lamented to me this error. It was reported to me that one Deputy Magistrate cast the Defendants in seventy-nine cases within four days, and assessed the damage in every case at Rupees 20 a beegah, exactly double the well-known customary *maximum* rate, which is Rupees 10 a beegah. It is not doubtful that these cases, which every villager knew in his heart to be wrongly decided, shook the confidence of the people in our just intentions.

37. The next specific complaint is the circulation, for the general information of Magistrates, of a decision given by Mr. Herschel, which, in the Commissioner's opinion afforded a striking example of the necessity of testing the truth of the papers and accounts produced by the

Plaintiffs, as evidence in their own favor, before admitting them to be conclusive. In this matter, the Commissioner of Nudden reported to

"My object, however, in submitting the record, is to afford the Lieutenant-Governor an opportunity of judging from actual facts of the system on which, in this instance, the Factory accounts appear to have been kept; of the manner in which the advances to a number of Ryots are asserted to have been conducted; and of the gross attempt to establish proof of their having been made, by the production of evidence of the most weak and worthless description.

me in the words transcribed in the margin. He applied for eight printed copies of the decision he forwarded, for circulation, in order to show Officers "the necessity of patiently and thoroughly sifting the evidence in similar cases, before pronouncing judgment." This was approved, and the copies were furnished. I cannot see any good ground for objecting to the circulation of an instructive case, showing the practical necessity of caution in admitting paper evidence; or to the inculcation of patiently sifting all evidence. Where the Factory papers are true, testing them will make their value apparent; it is only fabricated documents, such for example as the old agreement on a new Stamp above mentioned, that can suffer by a thorough scrutiny. The common result of a proper judicial scrutiny into the evidence advanced in support of the mass of attempts to establish contracts and cash advances, is shown by the fate of the majority of the cases tried when experienced Civil Judges, able to give as much time as was necessary to get at the truth of every claim, were employed in these trials

88. I do not wish to be understood as desiring to justify my measures by throwing blame, personally, on the prosecuting Planters. It is avowed and known that the work of prosecuting claims was left to the Native Amlah of the

Factories, who do not appear to have been under any practical check, and whose peculiarly unscrupulous character is denied, in general terms, by no person, European or Native, of any class. I believe the Planters themselves are more cheated and deceived by these men than any other persons are. The best-intentioned Planters, therefore, must expect an intelligent and just Judge to spare no pains in testing evidence got up by such agency.

39. In one passage of the Memorial it seems to be implied that the loss of their cases before the Principal Sudder Amcens, by Planters, is the result of interference with those Officers. If this be meant, it is no less unfair to those gentlemen, whose judicial impartiality is unimpeachable, than to others. For myself, I can only say that since Messrs. Bell and Davidson were appointed, I have neither interfered with them, nor corresponded with them; and with reference to a statement made by a Planter to the Indigo Commission, I have received from the Commissioner of Nudda a denial of all interference with them on his part.

40. The last specific complaint made in the Memorial relates to a Notification published by the Commissioner of the Nudda Division in Bengali, of which a translation into English is given in the Memorial. / It is objected to this Notification that it shows my views on the subject of the Indigo disputes (which it is inferred are such as to be blamable), and my interference and implied disapproval of the Act passed concerning them. I speak sincerely in saying that I cannot answer this, because I cannot see the process of reasoning by which the inference as to my views, and the assertion as to my interference, are founded upon this Notification. As to my views, whether they are

blameable or not, I have in paragraph 15 of this Paper explained them in plain words. As to my disapproval of the Act, I recommended the Act myself. The Act as originally prepared, was in many points much improved by the Legislative Council in Committee; and in some points it was altered, in my opinion disadvantageously, by enlarging its scope too much for the raw hands into which its execution was, of necessity, first entrusted. But I approve of the Act; and how my disapproval can be argued from Mr. Lushington's Notification, I cannot see. And as to interference with the Act, the Notification does not contain one word.

41. It is objected further to this Notification, that it will be injurious in the case of contracts now in existence extending beyond the present season. The original Notification is in Bengali, and I do not know how far the translation given in the Memorial is quite precise. It appears to me, from its purport, to have in view only cases in which Ryots are free to contract, or not, next year. But it may be that the wording might have been more clear on this point; for Mr. Herschel objected to the Bengali wording on the ground that it might lead Ryots, under unexpired contracts, to expect release next year; which at present, pending action on the Indigo Commission's Report, no one is in a position to promise; and therefore that it might possibly give rise to popular disappointment and irritation next year.

42. My concern in this matter was this:—from the Weekly Reports received from the Nuddea District, it appeared that a very large number of Ryots, even when cast in damages, preferred being sent to prison, and sold up, to cultivating Indigo for this one season. It was a grievous

thing to see a Jail crowded with worthy men of this respectable class. I had reason to suspect that so many Ryots would not have preferred this ruinous alternative, if they had been fully assured that, by cultivating Indigo this one year, their position next year would be none the worse. This suspicion was confirmed by a report, then lately received, that certain Ryots on the borders of the Jessore District were still ignorant of the promise of a Commission of Inquiry. With a view, therefore, to make the Ryots understand their true position, the following instructions were issued to the Commissioner of the Nuddea Division.

"The Lieutenant-Governor desires that you will strongly urge on all the Magisterial Authorities engaged in the enforcement of the new Law, the great importance of impressing upon the minds of the Ryots who have been prosecuted and cast, and upon all their neighbours who, there may be reason to believe, have taken advances for this season, and upon all Ryots in general who are in the same position, but hesitate to sow, the fact, that the present Law is temporary in its operation, and that before the next sowing season has come round, a Commission of Inquiry will have sat who will listen to whatever grievances they may have to complain of, and on whose report it is certain that such a system will be established next year as will be equal and just to all parties. After this season it will be at the option of the Ryots to contract and take advances for Indigo, or not, as they please; and those who this year fulfil their bargains for this year, will be in every respect as free to choose their own course next year, before the season for sowing arrives, as those who foolishly go to prison and involve themselves in ruin."

Accordingly a Notification, in Bengali, to the above

effect was prepared and issued by the Commissioner, for circulation in the Kishnaghar, Jessore, and Baraset Districts. Mr. Herschel, the Officiating Magistrate of Nudden, however, as I have observed, objected to the issue of the Notification in his District, chiefly on the ground that in it the orders of Government had not been correctly expressed. But the Commissioner, feeling himself satisfied on that point, issued the Notification himself. When Mr. Herschel's objections were brought to my notice, the Notification had been already issued; and the sowing season was nearly over. I did not think, therefore, that any good would be done by entering upon the question raised.

43. The evil was, that some Ryots, determined at all hazards to be free of Indigo in future, and looking upon the penalty of the sale of all *they* possessed, and imprisonment, however painful the process, as a final and unquestionable severance from the Indigo system, and being ignorant that their position next year would be no worse without this sacrifice than with it, were ruining themselves, often as much to the loss of the Planter as to their own loss. The object was to save all parties from this needless evil, by explaining the actual effect of the temporary law in force, and the true design of Government in passing it. All public Officers did no more than their bare duty in using their utmost endeavours that no person should be ignorant or deceived, in this important point.

44. On the concluding prayer of the Memorial, I have only to submit that I have never interfered in any judicial cases pending or decided, having no power to do so; and that I do not know what is meant by that part of the prayer which speaks of the promulgation of the Law being left

to the Legislature. But the duty of exercising the power of remitting Criminal sentences, whenever proper occasions for the exercise of that power arise, and the duty of seeing that Magisterial powers are not entrusted to partial or incompetent Officers, are duties of which I cannot divest myself. And every Government is bound to make the Law known to the people, when it is essential to their interests, and to the public tranquillity, that they should not be ignorant or deceived about it.

45. I have now replied to every complaint, general or specific, that I can discover in this Memorial. I have discussed each point at length, because I have thought it well to take this opportunity of respectfully submitting to His Excellency the Governor-General in Council, a full exposition of the principles on which I have acted throughout the agitation in the Indigo Districts. I have made it my first object to preserve the public tranquillity. The authors of the few breaches of the peace that have occurred have been all promptly punished; and the general tranquillity has been preserved. I have insisted that all classes of men should have the protection of the Law in person and property, as far as the Magistrate has power to protect them; and all classes have been throughout protected. I have taken care that the Law passed for the summary enforcement of true and lawful contracts, whereof the whole spirit and design are equitable, should be understood and acted upon as it was passed: and not as many would have had it, as if it had been a Law confiscating for the current season the Ryot's land for the Planter's profit. And this object, too, in a short time, was accomplished. I should have taken shame to myself if I had so acted as to gratify either party, at the expense of the just rights of the other. But so far

as was consistent with Law and Justice, and so far as was possible without infringing the freedom and rights of any class of Her Majesty's subjects, it has been my earnest wish to assist the Planters in their difficulties. I confidently refer to the Proceedings of Government in proof of this. And had there appeared amongst the District Officers, the slightest indication of an undue disregard of the just rights of the Planters, or of the advantages given by the new Law to all who had made any actual cash advance, the error would not have been for a day uncorrected by me.

46. *The Indigo crisis has been known for some time, by well-informed men, to be inevitable; and to be the more likely to be dangerous the longer it should be deferred. But I do not believe that the most sanguine of those who expected the sudden and violent break-up of a false system, ever expected that the crisis would pass over so peacefully as it has done, and on the whole with so little injury to the great interest at stake.*

(Signed) J. P. GRANT.

17th August 1860.



*Statement of remissions and commutations of punishment under Act XI. of 1860.*

( 51 )

| Name of Prisoner.                                                                                                                                                                         | Offence charged.                                             | Sentence.                                                                                                | Name of the Officer who tried the case. | Grounds of release.                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|-----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1.)<br>Teetoooram Chatterbarthy, Mooklata                                                                                                                                                | Insulting Ryots not to sow Indigo.                           | Six months' imprisonment and a fine of Rupees 200, in default, to a further imprisonment for six months. | Deputy Magistrate Mr. G. C. D. Berts.   | The offence charged was not an offence under the Law. The Defendant was the legal adviser of the Ryots, and as such was acting legitimately in advising them to follow what course he thought best. Moreover, the Prisoner was found guilty of the charge on what was no evidence of any specific act or speech whatever. This case created a great sensation in Nudda. For some time the Ryots were without any legal adviser whatever. |
| (2.)<br>Tara Chand Sheik, Manick Mullick, Moh Sheik, Jossun Sheik, Mecha Muldul                                                                                                           | Maliciously destroying and damaging a growing crop of Indigo | Three months' imprisonment each, with labor, commutable to fines of Rupees 25 each                       | Deputy Magistrate W. L. Mackenzie.      | The Commissioner recommended the release of these Prisoners on the ground that the trials were conducted in the most unsatisfactory manner, and the Prisoners convicted on the most insufficient evidence. On a perusal of the statements of the trials, the Lieutenant-Governor concurred with the opinion of the Commissioner, and ordered the release of the Prisoners.                                                               |
| (3.)<br>Sadoo Churn Karmolker, Kueno Sheik, Ramjoy Das, Nathoo Sheik, Meghna Mullick, Baboo Sheik, Dinesh Sheik, Gooreeb, Sirdar, Amir Sheik, Jodind Sheik, Hossein Ali and Ismail Snell. | Ditto ditto ..                                               | Six months' imprisonment each with labor, commutable to fines of Rupees 50 each.                         | Ditto ditto ..                          |                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| (4.)<br>Bharan Mundul, Moneraj Bawas, Hyder Mundul, Kurreen Mundul, Ramesharan Makaw.                                                                                                     | Ditto ditto ..                                               | Three months' imprisonment each, with labor, commutable to fines of Rupees 25 each.                      | Ditto ditto ..                          | In this case, although the conviction was borne out by the evidence, the punishment awarded appeared to be unnecessarily severe. The Lieutenant-Governor therefore, on the Commissioner's recommendation, ordered it to be reduced to one-half.                                                                                                                                                                                          |

| Name of Prisoner.                                                            | Offence charged.                                      | Sentence.                                                                                                                        | Name of the Officer who tried the case. | Grounds of Release.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|------------------------------------------------------------------------------|-------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (6.)<br>Haradhan Barua, Borbid-<br>la, Sheik, Gadam Shaha,<br>Bosari Mundul. | Intimidating Ryots                                    | Banishah Sheik, to one month's imprisonment and fine of Rupees 6; and Gadam Shaha and Borbid Mundul to a fine of Rupees 10 each. | Deputy Magistrate Mr. P. T. Fairs.      | The offences charged in the indictment were infractions of the provisions of the Criminal Code, Section 489, of Act VI of 1889, in intimidating a person who has contracted to labour this season, but the Ryots said they have been intimidated in these two cases were not known to have been intimidated into any contract at all. In consequence of this legal objection, as well as of the incoherence of the evidence, the Lieutenant-Governor, on the Commissioner's recommendation, ordered the release of the Prisoners. |
| (7.)<br>Anwar Hossain.                                                       | Ditto ditto ..                                        | Three months' imprisonment, and a fine of Rupees 10.                                                                             | Ditto ditto ..                          | A similar Case to No. 2.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| (7.)<br>Kusol Jondar, Koppindun Jondar, Haidi Barua and Isan Barua.          | Ditto ditto ..                                        | Three months' imprisonment, and a fine of Rupees 10.                                                                             | Deputy Magistrate Mr. P. T. Fairs.      | A similar Case to No. 1.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| (8.)<br>Kair Nath Brier, Koolin-<br>sar ..                                   | Intimidating Ryots                                    | Three months' imprisonment, and a fine of Rupees 10.                                                                             | Ditto ditto ..                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| (9.)<br>Hajidhar Barua, Sadoo Chura Barua, Gadam Barua, and eight others.    | Maliciously destroying and damaging a crop of Indigo. | Three months' imprisonment each, with labor, and a fine of Rupees 10 each.                                                       | Deputy Magistrate W. L. Mackenzie.      | The evidence for the prosecution consisted only of Factory servants who happened to arrive at the spot from different parts of the country at the same time but were not able to state what they saw were late, and hence not reliable. On the Commissioner's recommendation the Prisoners were released.                                                                                                                                                                                                                         |
| (10.)<br>Haidi Wollah, Baruan Mundul, Baruan Forumandul.                     | Intimidating Ryots                                    | Six months' imprisonment each, and Rupees 50 S.A. in lieu of labor.                                                              | Mr. Assistant Magistrate G. Taylor.     | A similar Case to No. 5.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| (11.)<br>Thirteen men (names not given).                                     | Breach of Indigo contract.                            | To pay to Government a fine of Rs. 10 each, if they did not sow, in default of which they were sentenced to imprisonment.        | Ditto ditto ..                          | As this extraordinary order was entirely against the law, the Prisoners, having been criminally punished for breach of a Civil contract, they were said to be released on the Commissioner's recommendation.                                                                                                                                                                                                                                                                                                                      |

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|---------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|---------------------------------------------------|---------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (12.)<br>Lail Chand Mundul, Turibet Mundul, Basod Mundul and Densoo Mundul.                                                           | Intimidating Ryots                 | Six months' imprisonment.                         | Deputy Magistrate Mr. W. L. Mackenzie.      | A similar Case to No. 5.                                                                                                                                                                                                                                       |
| (13.)<br>Kam Chand Mundul.                                                                                                            | Ditto ditto ..                     | Fine of Rupees 20, or three months' imprisonment. | Mr. Assistant Magistrate G. Taylor.         | The evidence for the prosecution in this case was most weak and contradictory, and the defence was not inspired into. The Commissioner recommended the release of the Prisoner.                                                                                |
| (14.)<br>Nundo Doss, Mohar Ali Shaha, Kurrean Mundul, Tinkore Mundul, Nokoole Shaha, Jeroo Sheik, Koorobeddes Jondar, and six others. | Destroying Indigo crop             | Six months' imprisonment.                         | Deputy Magistrate W. L. Mackenzie.          | The Commissioner recommended the release of these Prisoners on account of the worthlessness of the evidence for the prosecution.                                                                                                                               |
| (15.)<br>Misur Biswas, Jookee Mundul, and Hestor Mundul.                                                                              | Ditto ditto ..                     | Six months' imprisonment, and Rupees 200 fine.    | Mr. Assistant Magistrate Maclean.           | Ditto ditto.                                                                                                                                                                                                                                                   |
| (16.)<br>Yasserun Ghose, Raboo Sheik Sadoo Chum, and six or seven others.                                                             | Intimidating Ryots                 | Three months' imprisonment with labor.            | Deputy Magistrate Mr. W. L. Mackenzie.      | Ditto ditto.                                                                                                                                                                                                                                                   |
| (17.)<br>Yasserun Ghose, Raboo Sheik Sadoo Chum, and six or seven others.                                                             | Malicious destruction of Indigo .. | Three months' imprisonment.                       | Mr. Oliphant, Officiating Joint Magistrate. | The evidence against the Prisoners showed only the fact that their cattle were found grazing in a Indigo field, but whether they had strayed there or were driven there on purpose, was not proved. The Commissioner recommended the release of the Prisoners. |

From W. GURRY, Esq., Secretary to the Government of India, Home Department, to A. MONTE, Esq., c. s., Officiating Secretary to the Government of Bengal,--(No. 1639, dated the 31st August 1800.)

SIR,—I AM directed to acknowledge the receipt of your letter No. 4356, dated the 22nd instant, submitting a copy of a Minute by the Lieutenant-Governor on the Petition of the Indigo Planters' Association, which was forwarded for His Honor's remarks with my letter No. 1374, dated the 27th ultimo.

2. In reply I am desired to state, that the Governor General in Council has read with satisfaction the clear exposition of the course which His Honor the Lieutenant-Governor has pursued, and which in all its general features were already known to and approved by the Government of India, as being marked by a sound, temperate, and impartial judgment.

3. There is, I am to observe, one point only on which the explanation given is not so satisfactory as the Governor General in Council could have wished. It is much to be regretted that the Proclamation issued by the Commissioner of Nuddea was so incomplete as not to take cognizance of the position of those Ryots who are under engagements to sow Indigo in years subsequent to the present year. It is to be regretted that the instructions under which the Proclamation was framed did not take distinct notice of the cases of such Ryots. The Governor General in Council has reason to believe that in some instances Ryots in the above-mentioned position considered themselves to be set free from obligations which it certainly was not the intention of the Lieutenant-Governor to overlook; and I am to request that His Honor will consider whether measures should not now be taken to place the matter before those Ryots in its true light.

4. With the above-named exception, the Lieutenant-Governor's refutation of the charges which have been brought against His Honor's administration, in a time of great excitement and difficulty, is complete; and I am desired to intimate that His Honor may depend upon receiving the full and cordial support of the Governor General in Council in continuing to act on the principles on which he has hitherto acted.

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From W. S. SETON-KARR, Esq., Officiating Secretary to the Government of Bengal, to W. GREY, Esq., Secretary to the Government of India, Home Department,—(No. 4849, dated Fort William, the 17th September, 1860.)

SIR,—I HAVE the honor to acknowledge the receipt of your letter No. 1639, dated the 31st ultimo, conveying the Orders of His Excellency the Governor General in Council, on the Petition of the Indigo Planters' Association against the Government of Bengal.

2. In reply I am directed to express the satisfaction with which the Lieutenant Governor has learnt that His Excellency approves of the general course which the Government of Bengal has followed throughout the past season. The Lieutenant Governor much regrets the incompleteness of the instructions under which the Proclamation of the Commissioner of Naddea was issued, which has been pointed out by His Excellency the Governor General in Council, but he hopes that no practical mischief has thereby resulted, and he believes that none can possibly have resulted which may not be easily remedied.

3. Apart from all considerations of the precise term of Contracts, and irrespective of all questions of lawful obligation to sow Indigo, there is a general feeling in several Dis-

tricts against sowing, and this feeling appears nowhere so determined as in Pabna, which is under the jurisdiction of the Commissioner of Rajshahye. In that Division Mr. Lushington's Proclamation was not issued, and could have had no effect.

4. The true position at the present moment of those Ryots who are called on to cultivate Indigo for a Factory, on the ground that, although they are under no advance for this season's cultivation, they are nevertheless under an engagement to cultivate, the term of which has not expired, is that if they do not so cultivate, they must stand their chance of an action for Breach of Contract in the Civil Courts, where the case, if brought, will be decided upon its equity. It is impossible in fairness to say more than this to the Ryots who are so circumstanced. For all Ryots are at liberty to claim such "release from their engagements" as Section V. of Regulation V. of 1830 can give them, whereof the substance, as compressed in the marginal note, is, "Persons wishing to be released from their engagements to petition the Judge in certain cases." The object of that Regulation as stated in the preamble, is, amongst other things, "to afford persons, who may be unwilling to *renew* their Contracts for the cultivation of Indigo, the means of obtaining, by summary process, a *release* from their *engagements*." The process is to pay into the Judge's Court any balance due by the Ryot to the Factory. Moreover, the decisions of the Principal Sudder Amceens in Nuddon, under the late Act, go to show that, in the great majority of cases arising in some Factories, contracts relied on by the Planter cannot be established in a Court of Civil Justice. The proceedings of the Indigo Commission have proved that, in the parts of the country where the dislike to sow was most marked

in the past season, the contract, though nominally for a term of years, was by custom always renewed, on fresh Stamp paper, in the autumn of every year when a fresh advance was made. This has been the invariable practice in several large concerns in the District of Nudda, and in such cases, if the contract is not renewed, and no advance is taken this season, the Lieutenant-Governor thinks that it cannot be assumed that the parties did not understand the real contract to be annual; and it is not certain how the Courts would deal with the case, even if Regulation V. of 1830 is not resorted to. The Commission have also ascertained that in Nudda, where the Ryot signed at all, his signature was usually taken on a blank paper. The Ryot too will always be at liberty to plead illegitimate inducement, to which plea the extreme and palpable improvidence of the bargain on his side, as demonstrated by the Commission, will always give a good color. Moreover, supposing every point to go against him, so very great is the difference between the value of the produce of some crops on some lands and the value of an Indigo crop on the same land, that in some cases it will be wise for a Ryot rather to pay damages than to grow Indigo at the price fixed.

5. In order, then, to place the matter before this class of Ryots in its true light, a Local Notification for the Nudda Division might be issued, calling the attention of those Ryots who are under valid unexpired engagements, from which they cannot or do not release themselves by proceedings under Regulation V. of 1830, to the fact of their obligations remaining in full force, and of their liability to actions in the Civil Courts, and to decrees for heavy damages if they do not fulfil them. But the Lieutenant-Governor is of opinion that any Local Proclamation, issued in antici-

pation of the expected announcement by the Government of India, of what immediate course it intends to follow in consequence of the Report of the Commission, would do harm. He therefore respectfully recommends that whatever it is resolved to do, with the above object, be done in a General Notification, to be published by or under the sanction of His Excellency in Council, and he trusts that, for other reasons, such a Notification may be issued without delay.

6. Accompanying this letter are Reports lately received from the Commissioners of Nudda and Rajshahye. The Commissioner of Rajshahye, Mr. Reid, writes as follows:—

“The Ryots of most of the Concerns in Pubna have expressed their determination not to sow any more Indigo; and, where the Planter is also Zemindar, they have now proceeded, in some parts, to attempt to avoid the punctual payment of their rents, by offering to deposit them with the Collector. Their avowed reason is to avoid having to pay unauthorized cesses, but the real reason, I believe, is, that they may be enabled to break off all connection whatsoever with the Factory.”

The Commissioner of Nudda, Mr. Lushington, writes:—  
“I cannot conceal from the Government that there is at present a very unsettled feeling pervading the Northern portion of both Kishnaghur and Jessore. All parties connected with Indigo are looking to the Government for some expression of their intentions on the subject, and until these have become known the excitement will continue. On the one hand the Planters are wishing to obtain a special Contract Law, and in some parts are already making preliminary arrangements for the cultivation of Indigo in October, either

on new or unexpired contracts; and on the other hand the Ryots are losing no opportunity of expressing their determination to have no further connection with the Planters, either by Petition to the Magistrate or by the demonstrations alluded to by Mr. Molony."

7. Accompanying this letter is a Minute by the Lieutenant-Governor, in which his views are recorded, as strongly confirmed by late personal observation of the popular feeling.

8. It is not doubtful that an announcement of the resolution of Government on the Report of the Commission is anxiously expected by the whole rural population. There are points raised in the Report of the Commission which will require full consideration. But the Lieutenant-Governor assumes it as certain that the position of the Ryot, in respect to all past arrangements, will be made no worse than it is at this moment; and that, in respect to all future arrangements, his right to free action in regard to Indigo crops, as in regard to all other crops, will be respected in theory, and supported in practice. If so much as this be now at once formally proclaimed by the Governor General in Council, the Lieutenant-Governor believes that the tranquillity of the country will be preserved.

9. The Lieutenant-Governor, therefore, recommends that a General Notification to the following effect may be issued :—

"I. If any persons have been told that the Government is opposed to the cultivation of Indigo, such persons have been grossly misinformed. The cultivation of Indigo is free to all who desire to cultivate it.

"II. All disputes between Planters and Ryots regarding the possession of lands, or regarding boundaries, and all



disputes regarding lands claimed as *Nij* or *Kkas* by Planters on the one hand, and as their own Ryottee lands by Ryots on the other hand, must be decided in the usual course, that is to say, by the Magistrate, under the well known Act IV. of 1810, or by the Collector, under Act X. of 1859, or by the Civil Courts.

“III. It is not the intention of the Government of India to re-enact the temporary Law for the summary enforcement, by the Magistrates, of Indigo Contracts, which Law was applicable only to the past season, and will expire on the 4th of October next, corresponding with the 19th of Assin. Actions for breach of existing Contracts will be cognizable only by the Civil Courts after that date.

“IV. All Ryots are hereby assured that those who are not under any valid unexpired Contract cannot now be compelled, and will never be compelled, to cultivate Indigo against their own wishes, or to take advances for that purpose.

“V. All Ryots who are under a valid unexpired Contract are informed that they ought fairly to fulfil their engagements according to Law. If they do not do so, they will be liable to actions in the Civil Court, and to decrees for heavy damages.

“VI. Both Planters and Ryots are hereby solemnly warned to abstain from all unlawful violence or intimidation. All persons seeking the enforcement of Contracts, or their just dues, or redress in matters of civil obligation, must do so in a lawful manner, through the constituted tribunals having authority in such cases.

“VII. If the unlawful use of force is resorted to, or threatened by any ill-advised persons, the Magistrates will

instantly check and punish such misconduct. An ample force of Military Police has been placed at their disposal for this purpose."

10. If such a Notification is approved by His Excellency in Council, the Lieutenant-Governor will see that it is very carefully translated into Bengali, and made generally known to the people.

11. The Governor General in Council will see, from my letter of this day to the Commissioner of Nuddea, what arrangements have been made for increasing the force available for the suppression of disturbances in the Indigo Districts.

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#### Minute.

1. It is now generally known that the Indigo Commission have made their report, and an indication of the course which Government intends to adopt thereon is anxiously expected. The report and the evidence, with the most essential part of the Appendix, are now in the hands of the Governor-General and of the Council; but I have not yet been able to submit the report officially, as the whole of the Appendix is not yet printed. Nevertheless it appears to me extremely desirable that His Excellency in Council should take the earliest possible opportunity of issuing such a Notification as will calm the minds of the masses, now wound up to a state of intense excitement on this subject.

2. The position of the question is this. When in April last the Legislative Council, as an occasional and temporary measure, passed the Indigo enforcement Act No. XI. of 1860, it promised an enquiry into the system of Indigo

planting, of which the Ryots were bitterly complaining: and that promise was equivalent to a public assurance to the complaining Ryots, against whom the temporary Act was directed, that proved grievances should be remedied for future seasons. Under this assurance, whilst the Owners of Indigo Factories have been enabled generally, in consequence of the Act, to recover with expected profits the season's advances, which had been made and were in jeopardy when the Act was passed, the Ryots have been kept tranquil, awaiting the result of the promised enquiry. The Commission of Enquiry have now completed their work, and delivered their verdict [which is unanimous, as I understand it, so far as all really material facts are concerned]; and this verdict is against the system of which the Ryots complained. Nevertheless, the next sowing season in respect to some Indigo lands, and the season of annual advances being now near at hand, the Ryots are in fear, not without reasonable grounds, that attempts will be made, by such means as have been heretofore usual, to oblige them to cultivate as usual. In this position of the question, it is but a natural inference that any such attempts will be violently resisted, and, in fact, from the observed temper of the people, I think it certain that any such attempts will be violently resisted.

3. Under the circumstances stated, the Ryots must naturally expect some measure of relief. But the majority of the Commission are of opinion that no changes of the Law, and no changes (organic changes I understand to be here meant) in the system of administration are requisite, or desirable. The only remedy they recommend, which it is in the power of Government to apply, is a good and effective execution of the Law, as it stands. That is what I understand by a multiplication of Sub-Divisions, with a better

Police, and Civil Courts of prompt and effective procedure. Whether the majority are right in their view of the sufficiency of this remedy, or not, its propriety, so far as it goes, is unquestionable. And I believe that if the Ryots are practically secured from all illegal violence and coercion; and if they are immediately assured that Government is firmly resolved so to secure them, and has the power to do so, there will be little danger of disturbances in the Indigo Districts.

4. It is right that I should report, for the information of His Excellency in Council, my belief that the feeling of the Ryots against Indigo is so strong in the Bengal Districts' South of the Ganges, that generally speaking it is vain to expect Indigo to be sown in them as usual this next season, whatever course the Government may take; and how far this feeling may have spread it is not possible to say. The Commissioners of Nuddea and Rajshahye have lately sent in reports to this effect. The Magistrate of Pubna is of the same opinion as to his own District. I had a long conversation with a very intelligent Native Deputy Magistrate at Pubna, who has been employed in Indigo cases ever since the first excitement in March, and his opinion was expressed confidently, that such was the determined aversion of the Ryots to Indigo planting at this moment, that none would sow the plant this season, even though they should be offered 20 Rupees a beegah for so doing; though he thought it probable that in two or three years, if a remunerative price were offered, under a fair system, this aversion might be overcome. I have reason to know that three Members of the Indigo Commission, who have been listening to all parties for three months past, are of opinion that the Ryots will take no fresh advances, and will not sow in

the approaching season; and I believe that the same opinion is general amongst Native gentlemen and Public Officers.

5. I have myself just returned from an excursion to Sorajgunge, on the Jumoonah River, where I went by water for objects connected with the Line of the Dacca Railway, and wholly unconnected with Indigo matters. I had intended to go up the Matabangah and down the Ganges; but finding, on arriving at the Koomar, that the shorter passage was open, I proceeded along the Koomar and Kalligunga, which Rivers run in Nuddea and Jessore, and through that part of the Pubna District which lies South of the Ganges. Numerous crowds of Ryots appeared at various places, whose whole prayer was for an order of Government, that they should not cultivate Indigo. On my return a few days afterwards along the same two Rivers, from dawn to dusk, as I steamed along these two Rivers, for some sixty or seventy miles, both banks were literally lined with crowds of villagers, claiming justice in this matter. Even the women of the villages on the banks were collected in groups by themselves; the males, who stood at and between the river-side villages in little crowds, must have collected from all the villages at a great distance on either side. I do not know that it ever fell to the lot of any Indian Officer to steam for fourteen hours through a continued double street of suppliants for justice. All were most respectful and orderly; but all were plainly in earnest. It would be folly to suppose that such a display on the part of tens of thousands of people, men, women, and children, has no deep meaning. The organisation and capacity for combined and simultaneous

action in the cause, which this remarkable demonstration over so large an extent of country proved, are subjects worthy of much consideration.

6. In their examinations before the Indigo Commission the Ryots expressed their feelings and their determination in language not to be mistaken. Pangee Mulla, when asked whether it would not have been better to sow, than to

\* Answer 3214.

† Answer 1165.

go to prison, answers: "No, I would rather be killed with bullets than sow Indigo."\* Donu Mundal says: "Let

there be profit, or let there be loss, I will die sooner than cultivate Indigo."† Kulin Mundul, when asked at what price he would sow Indigo, if asked to do so by a person in whom he had confidence, answers: "I would sow Indigo for nobody, not even for my father and mother." These are fair samples of many such answers; and I am told that those only who witnessed the delivery of this evidence, can fully appreciate its effect. The Reverend Missionaries who were examined, than whom no class

*Reverend Mr. T. Schurr,*  
(answer 808.)

"The Ryots are now looking for the action of Government, and confidently expect that they will obtain redress of their grievances, but they declare that if they are disappointed, the consequences will be terrible. This is not my imagination; I only state what I have heard. This feeling does not exist in Kapadunga, but I have heard of its existence from persons from all parts of the District."

exists better acquainted with the feelings of the rural population, unanimously expressed a deep conviction of the strength of the feeling of the Ryots, on this question. I cite some of their answers in the margin. After what I have just seen with my own

eyes, I cannot doubt that the convictions of these gentlemen, solemnly delivered three months ago, are but the reflection of the true state of the mind of the Bengal Ryot.

*Reverend Mr. J. G. Lankin,*  
(*answer 318*)

"Since the time the Queen took the Government, the Ryots have been hoping for release, and as there is such a unity amongst them as has never occurred before, they think it is from God, and that the time of relief is at hand, and they also look to this Commission with great hope; but if they should be disappointed, none can tell what will be the consequences."

*Reverend Mr. C. Bonmetsch.*

"Since the Indigo Act, most of the Ryots have almost lost faith in Government, and their feeling is very sorrowful, and in some instances very bitter."

*Reverend Mr. C. H. Rhinhardt,*  
(*answer 1351*)

"Indeed, the Law could not be permanently enforced. The Ryots would rather die in Jail than sow Indigo."

8. With the Report of the Commission before me, and

*Reverend Mr. J. Long,*  
(*answer 1626*.)

"I can assure the Commissioners that no language can depict the burning indignation with which Indigo planting is and has been regarded by the Native population. It alarms me seriously for the future peace of India, unless an equitable adjustment of the question is made."

(*Answer 1651*.)

"The working of the present Act has created a feeling among all Ryots I have come in contact with, of bitter hostility towards the ruling Authorities generally."

exceptional Law will be requisite.

9. I fully agree with the majority of the Indigo Com-

7. A perusal of the evidence taken before the Indigo Commission, and a consideration of the findings of that body as to matters of fact, in respect to the ruinously unprofitable and compulsory character of the cultivation, will sufficiently explain why the state of the Ryots' feeling should be as above described. But the question which Government must now immediately deal with, is not the cause of this feeling, but the feeling itself.

bearing in mind the remarks of the Right Hon'ble the Secretary of State on the temporary Act just about to expire, I think I may safely assume that any exceptional Law in favor of the system of Indigo planting as heretofore practised, is out of the question. And it seems to me that under any good system that may hereafter be established, no

mission in their opinion that an exceptional Law, especially one involving Magisterial action, would have the worst possible effect even upon the interests of the Planters themselves. And it is right that I should express my belief that were such a Law to be passed, there would, at once, be agrarian risings, of which no man could foresee the consequences.

10. If the Governor General in Council resolves against any special or exceptional Legislation, I earnestly recommend the immediate announcement of that resolution.

11. That the conduct of Government, whatever it does, or whatever it does not do, will not be made matter of complaint, by some party or other, is not to be looked for. But if both the substantive Law, and the Law of procedure under which unexpired contracts were made, be allowed to continue as they were when those contracts were made, no party can have any just or reasonable cause of complaint.

12. To calm the minds of the Ryots, and to secure the tranquillity of the country, it appears to me essential that such a proclamation shall be immediately issued, as will make the Ryots feel secure against coercion.

(Signed.) J. P. GRANT.

17th September 1860.

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From W. GRAY, Esq., Secretary to the Government of India, to W. S. SUTTON-KARR, Esq., Officiating Secretary to the Government of Bengal, No. 2080, dated Fort William, the 24th October 1860.

Sir,—I AM directed by the Governor General in Council to forward in original, for any observations which the



Hon'ble the Lieutenant Governor may wish to make on it, the accompanying letter from the Secretary to the Indigo Planters' Association, dated the 13th instant.

From the Secretary, Indigo Planters' Association, to W. GURRY, Esq.,  
Secretary to the Government of India, dated Calcutta, the 13th  
October, 1860.

SIR,—THE Committee of the Indigo Planters' Association having at last received from the Commissioner of Nuddea information which they requested from him on the 7th ultimo, they proceed to submit to His Excellency the Governor-General of India in Council, the following remarks on the Minute of the Lieutenant-Governor of Bengal, dated 17th August, which was communicated to the Association with your letter of 31st August. \*

Although His Excellency has expressed himself satisfied with Mr. Grant's explanations, except on one point, the Committee respectfully beg to observe that Mr. Grant's Minute is not accompanied by any particulars of the cases to which he refers, by which His Excellency's judgment might be guided; and they therefore beg to submit the fullest details which they have been able to obtain in explanation. In commenting upon His Honor's Minute, the Committee are desirous of avoiding as much as possible any thing like entering into a controversy with the Lieutenant-Governor, still they cannot but express their regret, that the tone of His Honor's Minute is such as to show how deeply his feelings are affected against the system of Indigo planting generally, and the persons who are engaged in that cultivation,

In support of this position, the Committee content themselves by simply referring His Excellency to the style, as well as the matter, of one paragraph only, namely, the 5th, which assumes as a granted fact that Planters' have been in the habit of committing every description of crime and oppression.

The Committee do not wish either to enter into an argument as to the correctness of the Lieutenant-Governor's views of the position of the ryot as a capitalist, as they believe that such a theory is one wholly new, and one particularly opposed to the general idea of what constitutes a ryot in Bengal; but they must not be considered as in any way agreeing in the view His Honor takes of this subject, or assenting to his discovery that the ryot is a Capitalist as distinguished from a Laborer.

The Committee would, however, draw particular attention to one part of the Minute, where the Lieutenant-Governor is obliged to confess that the Gentlemen he employed in the Judicial Offices in the disturbed Districts were unfit for the common duties of the stations; and the Committee think that such a confession from such authority must necessarily draw the attention of the Executive Government to the necessity of establishing such a system as will give the people a more efficient class of Judicial officers, and the Committee would beg attention to this part of His Honor's Minute as supporting the truth of what has long been put forward by the Planters as their most serious grievance, viz., the inefficient state of the Mofussil Courts. His Excellency will have an opportunity in a later part of this letter, of judging of the fitness for the Judicial bench of one of them (Mr. J. S. Bell), who is considered by His Honor

as so much superior to the covenanted Magistrates whom he superseded in their duties.

The Committee consider it as hardly worth while referring to the earnest manner in which the Lieutenant-Governor argues as to there being no "confusion" in the districts; they can only say that a publication of the Lieutenant-Governor's, dated the 17th September, has led them to believe that the word "confusion" was not strong enough to express the state of the district; and they believe that the mere fact of a vast military force being employed in that part of the country where troops have not been stationed since it came under British rule, proves "confusion;" and they cannot but express their surprise that, at a time when all residents of these districts knew that affairs were daily becoming worse, His Honor should, as he does in the last paragraph of his Minute, refer to the crisis having passed over so peacefully, and with so little injury to the great interest at stake. The Committee can only say that the great interest of the European settler is for the present entirely ruined, and they see but little prospect of European capital being again embarked in the districts of Lower Bengal.

But leaving the general tenor of the Minute, the Committee would beg His Excellency's attention to the prominent cases brought forward by the Lieutenant Governor, on which he lays much stress; and when the Committee shew that his Honor has taken statements for granted without fully investigating the cases on which he relies, to found most severe remarks and attacks, not only on the Planters, but on his own judicial officers, the Committee believe that His Excellency will attach much less weight to the Minute in question than at first sight would appear to be due to it.

In the 28th para. of the Minute, the Lieutenant-Governor refers to the case of the Mookhtar who was, as stated in the Planters' petition, sentenced by Mr. Betts to imprisonment and a fine for instigating ryots not to sow.

It would naturally be supposed from the comments upon this case, that the man in question, Teetaram Chuckerbutty, was a Mookhtar acting as such on behalf of Ryots, and that he was sentenced for exercising his lawful avocations as a Mookhtar; and His Honor on this assumption would make out that the sentence in question deprived the ryots of legal assistance, and that it was intended to give an advantage to the Planters.

The Committee have, however, ascertained that the man, though entitled perhaps to call himself a Mookhtar, was in fact but an omodwar (one seeking employment), that he had never appeared before Mr. Betts as Mookhtar, that he was not employed in any way by any ryot on that occasion, that a few days previously he had waited on Mr. Forlong begging for employment in any capacity, and that on the day in question, he was hanging about Mr. Betts' tent looking out for the chance of any thing that might occur, holding no Mookhtarnama, and in fact the ryots whose cases were before Mr. Betts, never consulted him, or referred to him as their legal adviser.

Mr. Betts had for more than two hours been patiently explaining to the Ryots their position and liabilities, pointing out to them that the law distinctly laid it down that if they did not complete their contracts they would be subject to imprisonment, and perhaps be cast in damages; and he begged them to retire and think over the matter.

p. 34

To the former alternative the Ryots were inclined to agree, and they retired to some neighbouring trees to consult. The man Teetaram Chuckerbutty went to them then for the first time, and joining in their conversation, advised them to resist sowing, and not to mind the consequences. Information of this was brought to Mr. Betts, who at once had him brought into Court, heard the evidence, finding that he was not acting as Mookhtar for any of the parties, convicted him of instigating, with evil design, the Ryots not to sow.

The Committee admit that the sentence might not perhaps have been strictly legal within the words of the section of the Act as amended and passed, but the mere fact of an error as to the interpretation of the wording of the Act has a very different effect from that which the Lieutenant Governor attributes to this decision, which he erroneously regards as a gross interference with the liberty of the legal agent of the Ryots.

His Honor is wholly misinformed as to the Ryots in that quarter not being able to obtain the services of legal Agents to defend their cases, and it is wholly incorrect to state "that the prosecutors for several days had it all their own way;" so far from this being the case, on the very same day a complaint having been lodged against one really acting as a Mookhtar before Mr. Betts, it was at once dismissed by him, on the ground that he could not interfere with the advice that any legal agent deemed it right to give to his client, and Mr. Betts distinctly pointed out to the complainants that the position of this man was wholly different from Teetaram Chuckerbutty.

The Committee unhesitatingly refer to the records of the Court in proof of their assertion, that no Mookhtar was

deterred from representing ryots in consequence of Mr. Betts' decision, and they are quite at a loss to understand upon whose representation the Lieutenant-Governor has been led into so grave an error; and His Excellency will see how serious a matter this is when he observes the frequent and bitter allusions to it in the Minute.

The other case on which his Honor comments, as shewing not only misconduct on the part of Mr. Betts, but, what is of far more importance to the Committee, as supporting the grave charges of forgery and perjury against a Planter, or at any rate against their subordinates, is that mentioned in para. 32, which he says accidentally came to his knowledge, as one in which Mr. Betts gave a Planter a decree against a Ryot on a written agreement purporting to have been made in 1856, though executed on stamped paper, which on inspection proved to have been sold in 1859.

On investigation, this charge proves to be utterly untrue. The Kuboolyut, or agreement in question, of which a copy and translation is herewith sent, recites that the ryot (Hishab-dee Shaik Mundle) who was complained against, was indebted to the factory at the close of the season 1859, to the extent of Rs. 3, annas 3, pie 6; that he had received a further advance of 12 Rs. in cash in consideration of his engaging to cultivate 7 beegahs with Indigo in 1860 and in the four following years, terminating in 1864, the correctness of the account shewing the balance of Rs. 3, annas 3, and pie 6, and the payment of the advance of Rs. 12 in cash, was sworn to by the Manager of the factory, Mr. Tayler, and proved by Mr. Betts' inspection of the books; and on that evidence Mr. Betts gave the decree against the Ryot on the 18th April, 1860; and the Committee would draw particular attention

to the different years mentioned in that document as those over which the contract was to extend.

On the 27th July 1860, Mr. Principal Sudder Ameen Bell, who is above referred to as being considered superior to the other Magistrates, on hearing another case, delivered the judgment, of which a copy is herewith sent, and to which we beg His Excellency's particular attention, as His Excellency will perceive in that judgment he did refer to the Kuboolyut filed in the former case, which is above referred to, and apparently without having made any further enquiries, and certainly without having read the document which, in fact, was not in evidence before him, he gratuitously pronounced the same to be a spurious exhibit, inasmuch as it is dated at the foot in figures, December 1856, when the stamp was sold in November 1859.

The Committee beg His Excellency's attention to the Kuboolyut, which requires only the slightest glance to show, that the date of the English year 1856 is only a mistake and clerical error of the Bengali writer: and that it was a Kuboolyut for season 1860 to 1861 inclusive, and that the whole text and wording of the agreement unquestionably prove this to be the case. When an error was made in one of Mr. Herschel's Purwannahs, that of 19th April, which caused the Planters' losses that can only be estimated by tens of thousands of pounds, and Mr. Herschel put forward, as his defence, that it was a clerical mistake, and that it was by accident that the obnoxious copy happened to go to the only place where it was likely to do harm, the Planters did not refuse to accept the explanation, however opposed to probability.

It would seem, however, that no such feelings of fairness

are to be evinced by the authorities towards Planters, and that no opportunity is to be omitted to misrepresent and malign them, and this is particularly the case in the present instance, where the record could have at once been called for and inspected, and which in fairness ought to have been done.

The Committee can only hope that neither Mr. Bell himself, whom the Lieutenant-Governor designates as the experienced Civil Judge, Mr. Herschel, the Magistrate, who eagerly seized on the case and sent it up, Mr. Lushington, the Commissioner, who reported it to the Lieutenant-Governor, nor Mr. Grant himself, ever looked at the document before basing on it the grave charges that are contained in the Minute. Five minutes' inspection would have prevented a most unjust accusation being put forward in an official document, and much of that official document would then have been unwritten.

In para. 357, His Honor, on whom this case seems to have made much impression, again introduces the Kuboolyut as the foundation of sarcasm, and a slander on the whole body of Planters in the following words :—

“ It must doubtless have been agreeable to Planters, when their suits were tried in such a fashion, that decrees were obtainable on agreements purporting to be 4 years old, though written on stamps which were in the Vendors' shops one year ago.”

The Committee respectfully, but most earnestly, beg to submit to His Excellency, that such language is as unworthy of a man holding Mr. Grant's high official position, as it has now been proved to be unfounded and unjust ; and should



His Excellency (as they cannot but believe he will) view the matter in the same light as they do, they appeal to his high sense of honor and fairness to point out to the Lieutenant Governor the propriety of withdrawing the charge as publicly as it has been made.

In the 37th para., His Honor replies to the complaint that was made, of his influencing the minds of judicial officers by circulating to all in the districts copy of a decision of Mr. Herschel's, and of a letter from Mr. Lushington on the subject of a charge against the servants of a Factory, respecting which Mr. Herschel had at that time made a preliminary enquiry.

The communications referred to are annexed, and the Committee appeal to His Lordship in Council to say, if they are not of a nature to prejudice all Magistrates against Planters.

\* The Committee have carefully gone into the case referred to, which was sent up for trial to the Judge, whose decision was adverse to the servants of the Factory; but the Committee do not hesitate to declare their belief, that the decision is incorrect, that it was biassed by the proceedings of the Lieutenant Governor; that it will be reversed on appeal; and if Government will publish Mr. Lushington's communications, the Proprietors of the concern are prepared to prosecute for a libel, with the object of proving that the allegations are unfounded and untrue.

Beyond defending the body they represent from the grave and sweeping charges brought against them by the Lieutenant-Governor, the Committee do not desire to contest, or to enter into a controversy on individual cases, but they

feel it their duty to protest on constitutional grounds against the interference of the Lieutenant-Governor, which has unquestionably been exercised to such an extent as to impair, if not to destroy, judicial independence within the districts under his control. His Excellency will find on enquiry that, upon the abolition of the office of Superintendent of Police, an officer who from his position could not be classed with that of the Lieutenant-Governor, or be considered as having any such influence as that of the head of the Government, the supervising control over the proceedings of Magistrates pending or disposed of, rests in the hands of the Lieutenant Governor of Bengal; and the Committee respectfully submit that such a power, exercised as it is by Mr. Grant, who is superior to the whole judicial bench of Bengal, and who has complete power over the members of that body, is one that is dangerous to the true interests of justice, and one that ought not to exist, more especially so when the uncovenanted officers of that body are completely under the control, and hold their offices subject to the pleasure of the Lieutenant Governor alone.

In thus replying to His Honor's Minute, the Committee have avoided as much as possible acting otherwise than in a calm spirit; but although they feel that they are contending with one whose position makes it impolitic on their part to enter into controversy with him, they cannot, consistently with their duty or feeling as English gentlemen, representing a large European Association, composed of many men who have not only invested their all in this country, but have done so in the belief that they would be protected by the leading principles of an European Government, allow such serious charges as these brought by His Honor, to pass unremarked upon, and without protesting

against the injustice and impropriety of them as they now do; and believing that a different line of conduct on the part of the Government of Bengal would have led to a very different result to that which now exists, they submit these remarks to His Excellency, trusting that the matter is one of sufficient importance to attract to its careful consideration His Excellency's earnest attention.

From T. H. LUSHINGTON, Esq., Officiating Commissioner of the Nuddea Division, to the Secretary to the Indigo Planters' Association Calcutta, No. 23A., dated Alipore the 27th September, 1860.

SIR,—IN compliance with the request contained in your letter of the 7th Instant, I beg to send you a copy of Mr. Bell's decision in the case therein referred to.

#### DECISION.

On the 18th April, 1860, Mr. Betts upheld the validity of the Kuboolyats of Defendants No. 2 to 6—At the present stage of the Case the *bond fide* of the Covenant of Boroanund Sheikh requires determination. The exhibit is *ex tenore* spurious, and there is not a scintilla of proof to sustain it. The witnesses to deed are all unlettered, and the intrinsic evidence in favor of the covenant is derived from men of very questionable veracity. Soenath Bimas and Isserchund Ghose are obnoxious to the grave imputation of having forsworn themselves in several other cases, and their testimony is by no means calculated to give probative force to the covenant propounded. In respect of the other defendants, the ruling of Mr. Betts cannot be interfered with, but I would remark *en passant* that the Kuboolyat of

Missuhdeen Shiekh is on its face a spurious exhibit, for it is dated 10th December, 1856, while the stamp on which it is engrossed was sold on 17th November, 1859!!! There can be no doubt that the above defendant has been unjustly saddled with liability, and as no review of judgment is admissible, the matter must remain *in statu quo*. The case was dismissed with respect to defendant No. 1.

(Signed) I. S. BELL,  
*Add. Prinl. Sudder Ameen on Deputation.*

17th July, 1860.

(True Copy.)  
SREENAATH GHOSE,  
*Assistant to the Commissioner.*

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PEERPORE FACTORY.—MR. A. TAYLOR, *Manager*.

| No. of Case. | Name of Plaintiff.      | Name of Defendant.       | Date of Kutooyat. | Locality. | Amount of Advance. | Quantity of Land. |          |
|--------------|-------------------------|--------------------------|-------------------|-----------|--------------------|-------------------|----------|
|              |                         |                          |                   |           |                    | Sown.             | Not sown |
| 329          | Cundermohun Chowdry ... | 1. Beroomund Sheikh...   | 10th Dec. 1859    | Kadimpore | Rs. 7              |                   |          |
|              |                         | 2. Sadoo Gazee ...       | Do.               |           |                    |                   |          |
|              |                         | 3. Arund Hetsane ...     | 10th Dec. 1856    |           |                    |                   |          |
|              |                         | 4. Hissubdeen Sheikh ... | 10th Dec. 1859    |           |                    |                   |          |
|              |                         | 5. Diljan ...            | Do.               |           |                    |                   |          |
|              |                         | 6. Thakoer Shah ...      |                   |           |                    |                   |          |

SRI SRI DOORGA AID.

(Copy of *Kuboolyut* \*)

TO THE HIGH IN DIGNITY, THE ILLUSTRIOUS MR. JAMES  
HILLS.

SAHIB,—I, *Sree Hesadee Shake Mundul*, inhabitant of *Khadimpore*, indite this "*Kuboolyut Patro*" for Indigo advances in purport as follows:—I am a *Ryot* of the Gentleman's *Peerpoore* Indigo Factory, where I receive advances for Indigo year by year. I cultivate Indigo, deliver the Indigo leaves. On a comparison of the Indigo advance accounts for the year 1859, credits being deducted, there is a debt against me of Rs. 3-3-6, and receiving in Cash 12 Rupees, and the price 2 Annas for the stamp paper of the "*Kuboolyut*," in all for the present and the arrears taking Rupees 15-5-6 for 7 beegas of land of my own desire from the year 1860, up to the year 1864, for the space of time (5) five years, year after year cultivating 7 beegas of land, conditioning to deliver the Indigo leaves at the Factory, hereby indite and deliver this *Kuboolyut*, and covenant that year after year, cultivating the said 7 beegas of land with Indigo, I will deliver the Indigo leaves at the Factory. The Indigo lands "*Nal*"\* yielding abundantly suitable,

\* A local term, descriptive of the quality of the land.

I will cause to be measured with a "*Rosee*" 55 yards in length and defined, year after year completing the cultivation within the 30th March, within the 30th of April, agreeably to usage, sowing down the measured defined lands with Indigo, and in due time I will attend to the weeding. I will year after year cultivate each *beega* of the Land under advances with ( $3\frac{1}{2}$ ) three and a half *seers* of

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\* An acknowledgement or agreement, the counterpart of a Pottah or a Lease.

Indigo seed, the price of which for each *beega* I will pay at the rate of 4 annas. At the time of weeding, if the Indigo be of a fine description, in that case I will take weeding expenses as I may require. On the Indigo leaves being ready, I will cut the same, make delivery at the Factory; the price I will receive will be at the rate of 4 Bundles

\* *Maath* is the term in the Vernacular. for one rupee. The bundle to be

measured by an iron chain of three and a half\* cubits. Should I cut the Indigo leaves with the aid of the Factory people, whatever may be the expense attending the same, that, and should the said Indigo be conveyed to the Factory by boats and carts under advances to the Factory, the charge for conveying the same, at the rate of 2 Rupees for each hundred bundles, will be added to my advance account. During the prescribed period and at the proper time I will cultivate with Indigo the land under advance, supplying Indigo leaves and Indigo seed. Then, if in any year, at the proper time, should I neglect to sow Indigo, in that case you have authority to sow down the said land and my account will be charged with the expenses attending the same. Regarding the sowing of the lands under advances, year after year, in any year if I raise difficulties and be negligent, receiving suitable punishment from the authorities for the same. I will cultivate Indigo and supply Indigo leaves; and touching the matter of sowing the Indigo lands and supplying the Indigo leaves, I will, year after year, be liable for the profits of the manufactured Indigo at the rate of 10 Rupees for each *Beega*. I will, year after year, gather the seed produced from the lands for which advances are made, convey it to the Factory, and separate the same from the pods, for which I will take separately, at the rate of 8 Rupees a *maund pookku* weight. Should I not deliver the said Indigo seed at the Factory,

but sell it elsewhere, then, whatever be the quantity of the seed, the price thereof, at the rate of 10 Rupees a *maund*, I will pay to the Gentleman. Year after year, when the Indigo business is completed, the advances, the sowing seed, and weeding expenses and charge for carriage and so forth, being charged agreeably to the "*Hanth cheeta*"—a comparison being made, the dues and the amount of advance money for the ensuing season up to the prescribed time, keeping the same fixed, deducting that whatever shall be receivable, the same will be taken year by year. On the space of time expiring in the year 1865, supplying the Indigo leaves, the said advance money, I will repay and the advance money to be repaid by Indigo leaves, I will not petition to deposit other money: should I do so it will be disallowed. The conditions of this "*Kuboolotee*," I, and my Representatives will act up to and observe. To this purport I write and deliver this "*Kuboolotee*" for a prescribed period to receive advances. The end of Year, 1866, the 10th day of December.

WITNESSES.

Sri Mahdub Rai, Station Peerpore,  
 Sri Manejim Shake, of the same Station.  
 Sri Mokim Mondil, inhabitant of Petumberpore.  
 Sri Kanac Shake, inhabitant of Gopalpore.  
 Sri Alam Shake, inhabitant (*illegible*.)

Endorsed on the Stamp Paper, the year 1859, 17th November, Sri Thakoor Doss Chowdry, Station Dreg-nagore, Zillah Nuddea, through Sree Moty Roy of Goaree. No. 3, price 2 annas.



From E. H. LUSHINGTON, Esq., Officiating Commissioner of the  
Nuddea Division, to the Secretary to the Government of Bengal,—  
(No. 133 et. dated the 15th May 1860.)

✓ SIR,—I HAVE the honor to submit for the perusal of the  
Lieutenant-Governor, the accompanying Statement in ori-  
ginal, of a case for a Breach of Contract, tried and decided  
by Mr. Herschel, Offg. Magistrate, under Act XI of 1860.

2. In the propriety of that Officer's decision in dismis-  
sing the case, I entirely concur, though I think he might have  
gone further and given damages against the complainant un-  
der Section IV. of the Act.

3. My object, however, in submitting the record, is to  
afford the Lieutenant-Governor an opportunity of judging  
from actual facts, of the system on which, in this instance,  
the Factory accounts appear to have been kept; of the manner  
in which the advances to a number of Ryots are asserted to  
have been conducted; and of the gross attempt to establish  
proof of their having been made, by the production of evi-  
dence of the most weak and worthless description.

4. The name of the Factory is Peerpoore, one of many  
forming the large Concern of Messrs. Hill & Co, whose ge-  
neral Manager is Mr. Forlong; and the Assistant in charge  
of this particular Factory is Mr. Saubolle, who appeared as  
the chief evidence for the prosecution.

5. The case now under notice is peculiar, as it was  
brought up with apparently the most complete proofs which  
could be possibly required; there were the books of the  
Factory, written Kuboolyuts with direct evidence to their  
preparation at the time of making the advances, and the  
payment of the advances; and every one of these proofs

completely, entirely, and, I may add, disgracefully broke down.

6. I will not trespass on the Lieutenant-Governor's time by recapitulating the particular points of failure in each instance, but the Lieutenant-Governor will see from the record that the *Purtunjat* (an account of the advances paid to each Ryot) was never brought for Mr. Saubolle's signature by the Factory servants till the 1st March, though the advances were purported to have been paid on the 18th September. The book itself was to all appearance as if it were only a week old, with clean edges, and unruffled red cloth,\* cover, while the writing looked as if it had been written continuously, instead of the entries being jotted down opposite each name as payments were made. Lastly, the Daily Cash Book turned out to be no Daily Cash Book at all, payments nominally of 13th September not being entered till the month following.†

7. With regard to the *Kuboolyuts*, some are asserted to have been written by a hanger-on of the Factory, who had never written one before; some by a man, a matmaker by trade, who happened to call at the Factory on that day, when he received a fresh order for more mats, with 4 annas cash advance; and some by a person who went to the Factory to learn his business as a writer. Both the last named persons admit having given evidence before, and one so frequently in both Civil and Criminal Courts, that he cannot remember how often.

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\* See Report of Indigo Commission, Questions 3305, 3306, 3307 and 3505.—W. F. F. Sec., I. P. Assoc.

† See Report of Indigo Commission Questions 3039-40, 3305, and particularly Question and Answer 3505.—W. F. F. Sec., I. P. Assoc.

8. In addition to the exceeding incredibility of such evidence, the Lieutenant-Governor will observe that Mr. Herschel considers that the Kulooyuts bore internal evidence of their utter falseness, and I must say that I think he was fully justified in forming such a conclusion.

9. If the Lieutenant-Governor see fit, I would respectfully beg that the original enclosure may be returned to me as soon as possible, with seven or eight printed copies, as I should like to send a copy to all Officers under my control employed in trying cases under Act XI. of 1860, pointing out at the same time how necessary it is to follow Mr. Herschel's example in patiently and thoroughly sifting all the evidence which in such cases may be brought before them.

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From A. R. Young, Esq., Secretary to the Government of Bengal, to the Officiating Commissioner of the Nuddea Division,—(No. 2708, dated Fort William the 23rd May, 1860.)

SIR,—I AM directed to acknowledge the receipt of your letter, No. 16, dated the 18th instant, submitting copy of a decision by Mr. Herschell, Officiating Magistrate of Nuddea, in a case of Breach of Contract, in which the Kulooyuts brought forward to support the charge were found to be forged.

2. The Lieutenant-Governor does not understand on what ground Mr. Herschell determined not to enforce the Penal Section of the Act against the Plaintiff in this case, as he announced his attention to do in all other similar cases.

8. If possible, the person responsible in this case should be put on his trial on the Criminal side, for endeavouring to support a false claim by a forgery.

4. Printed copies of the decision referred to in your 2nd paragraph have been already forwarded to you, for circulation among the Officers in your Division empowered to try cases under Act XI. of 1860, and the accompanying ten printed copies of Mr Herschel's present decision are also forwarded for the same purpose

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From J. S. BYLL, Esq., Additional Principal Sudder Ameen of 24-Pergunnahs, to W. S. STON-KARR, Esq., Officiating Secretary to the Government of Bengal,—(No. 1, dated the 3rd November, 1860.)

SIR,—As the Indigo Planters' Association have thought proper, in their letter to the Government of India of the 13th ultimo, to call into question my judgment in the

\* No. 320.  
CHUNDER MOHUN CHOWDREY, Plaintiff,  
*vs*  
BOROMUND SHIRICK AND OTHERS, Defendants.

case noted in the margin,\* I beg to submit for His Honor the Lieut-

enant-Governor's satisfaction, the following remarks, which I trust will vindicate my proceedings.

2. The Indigo Association would wish to make it appear that they have cleared up all that was dark and equivocal in the above case, but the arguments advanced for that purpose are by no means such as would satisfy the Judicial mind.

3. Their explanation is, that the terms of the agreement bear internal evidence that the date of the English year was a clerical error, the Bengali writer having written 1856 instead of 1859, and that ordinary consideration of the document would have led to the discovery of that circumstance.



to indicate the year being left entirely blank. The Bengali figures, moreover, are such as could not account for such an error in the year being made.

6. In order to give a fabricated Deed a particular date, the date of the sale of Stamp Paper is sometimes altered by unscrupulous men to meet the exigency of the occasion, but an error in so material a matter as the date of a Deed,—a document which in itself imports deliberate and careful execution, seldom if ever occurs; for a correct date is essen-

“Paper, if of a date known to be posterior to the date apparent on the face of the instrument, a certain proof of spuriousness.”

tial to the validity of a contract, and is one

of the marks of its authenticity,—*Vide* Bentham's *Rationale of Evidence*, Vol. 7, p. 181.

7. Carrying on the comparison of the Kuboolyut in

*Peerpore Factory.*

| Number of Cases. | Name of Defendants. | Date of Kuboolyuts. | Date of Decision. |
|------------------|---------------------|---------------------|-------------------|
| 500              | Balbnath Chaud      | 10th Dec. 1860      | 10th July 1860    |
| 512              | Ram Sunder . .      | 10th Dec. 1860      | 10th July 1860,   |
| 500              | Kumal Maudel        | 9th Dec. 1860       | 18th July 1860    |
|                  | Bhaggy Sholkh       |                     |                   |

question with others produced by the same Factory, I would beg reference to the Tabular Statement in the margin, which will shew that

actions were preferred under the Act in the first half year of 1860, upon Kuboolyuts which bore date the 9th and 10th December 1860. Were these also clerical errors?—I will here merely add that during my long judicial experience Deeds in such a predicament never before came under my review.

8. From a review of numerous cases, I arrived at an

impression, that to meet the particular exigency of the times, and to coerce the Ryots, a vast number of Kuboolyut was called into existence, to which the Ryots were not assenting parties; and in order to accomplish this, agreements were fabricated and fictitious details of account were entered in written forms prepared for the occasion, the date of the year being left blank, to be hereafter filled up at leisure; but the pressure of work left the Factory Amlah insufficient time to read through all the writings. Thus fictitious dates were affixed to agreements to which they were wholly inapplicable, plainly indicating the gross spuriousness of the Instruments themselves. I would here call special attention to the agreement already referred to in paragraph 5, from which it will be seen that the date of the year of the Deed is left blank, the numerals 18 , only appearing. Is this also a clerical omission?

9. The decisions noted in the margin will show the spu-

| Number of Case. | Name of Defendants | Date of Kuboolyuts | Date of Decision |
|-----------------|--------------------|--------------------|------------------|
| 900             | Sohar Mullik ..    | 9th Dec 1860       | 16th July 1860   |
| 667             | Sekunder ..        | 10th Dec 1860      | 21th July 1860   |

rious character of the Kuboolyuts put forward by the Peerpore Factory. Execution of the

Deeds in both cases was solemnly sworn to by the Factory Amlah. It will scarcely be credited that both the Ryots were dead some time before the date of the Deeds they were said to have executed. Not only was the fact ascertained under the usual processes of Court, but petitions were put in by Mr. Taylor, through his Attorney, admitting the demise of the Defendants, and that the sons\*

\* Nussur Mullik, son of Sohar Mullik.  
Gopal, son of Sekunder,

of the deceased parties had taken

the advances. The petitions are signed by Mr. Taylor, and it appeared to me, while making these statements, Mr. Taylor must have forgotten the fact that Kuboolyuts had been put in and sworn to by Native witnesses, and that it was set forth in the Plaints that the Defendants had received advances, and executed the Kuboolyuts filed !!!

10. The Planters' Committee declare that I gave an *ex cathedra* opinion on the merits of a case not before me, and gratuitously pronounced the Kuboolyut of Shesuboddeen Sheikh spurious, the validity of which was upheld by Mr. Betts. In making such a statement, the Committee have lost sight of the fact that the case was one against several Defendants and the parol proofs were identical. Mr. Betts decided *quo ad* five Defendants, and I had before me the same case *quo ad* the remaining Defendant. I went thoroughly into the case and found that the evidence of the witnesses to the Kuboolyut was never offered or adduced, and consequently the Deed was never proved. Two outside witnesses were brought forward instead of the primary evidence of the case to speak to the execution in general terms, such secondary evidence being quite worthless in the presence of primary evidence withheld; and I have no doubt that every Judge in the Country, with all the facts before him, would arrive at the same conclusion with myself, and reject this Kuboolyut as false and fabricated. It would be out of place for me to allude to the proceedings of another Officer whilst vindicating my own.

11. It has always been contended that the Planters' oath to an advance was sufficient to establish claim. They, however, on being asked to support the Kuboolyuts declined to do so, on the ground of that being the Comashtah's affair,



and would never swear to their execution or their being *bond fide* Deeds in any single case, although invariably as Plaintiffs they did not hesitate to put them forward as *bond fide* exhibits on which their claims were founded. It is assuredly a peculiar system of management that leaves the execution of the important Kuboolyat to the Gomashah, and the payment of the advance only to the Planter, who accordingly has no knowledge whether the Ryot has come under any legal obligation.

12. Under the above circumstances, though I was prepared to give every weight to the evidence of European *Gentlemen in their cases*, it was impossible to admit that their evidence on other points made up for their silence on the important question of the validity of the documents or altogether outweighed the suspicious circumstances which appeared during the trial to indicate that the Deeds had been fabricated to meet the occasion.

13. Such being the character of the agreements of the Peerporo Factory, as ascertained

| Number<br>of Case | Date of Decision. |
|-------------------|-------------------|
| 993               | 18th July 1860    |
| 999               | 18th July 1860    |
| 994               | 18th July 1860    |
| 998               | 18th July 1860.   |
| 996               | 18th July 1860.   |
| 990               | 18th July 1860.   |
| 912               | 10th July 1860.   |

from the cases noted in the margin, and which had been so recently decided, it was impossible to believe that the year 1856 in Shesaboddeon Sheikh's Kuboolyat was a clerical error in natural sense, neither was the judgment of another binding up-

on myself to exclude my opinion upon the merits of the case.

14. I have hitherto confined my observations entirely to the Kuboolyats of the Peerporo Factory, because I have had

Case No 920 was decided on  
27th July 1860

to do deal with the remarks of the Indigo Association,

which bear on matters connected with that Factory. But to prevent all misconception it may not be out of place to state that the Peerpore Factory was not singular in the spurious nature of its exhibits, and to illustrate, what I mean I will quote the following cases.

Two Kuboolyuts were put forward by the Ruttampore

| Number of Case. | Name of Defendants. | Date of Kuboolyuts | Date of Decision                                                               |
|-----------------|---------------------|--------------------|--------------------------------------------------------------------------------|
| 775             | Bholu ...           | 12th January 1860  | 18th July 1860 — <i>Pate</i> and so miscellaneous order of 11th September 1860 |
| 777             | Moolhoo             | 12th January 1860  | id                                                                             |

Factory in Cases Nos. 775 and 777.

The Planter swore to the fact of the advances having been made, and produced his

English Account Book, in which the advances are recorded. The Amlah of the Factory swore to the execution of the Kuboolyuts, but from evidence adduced, and a searching local investigation, it was established that the men to whom the execution of the agreements was attributed, had died long before the date of the exhibits. Ere I left the District I made over these cases to the Magistrate for Criminal prosecution.

15. The Indigo Association have labored to shew that Toteoram Chuckerbutty was not a Mokhtear during the time Mr. Betts was at Damoorhooda. Personally I know him in no other character than that of an Attorney for the Ryots. The records and register of decided cases in my Court will verify this fact.

16. As the Indigo Association are anxious for facts, I would state that Mozdeen Mahta was the person who was

unjustly incarcerated for nearly three months, although no decree was passed against him. After due enquiry he was released by me. Tilock Paramanick's property was sold, although no award had been passed against him.

17. The Indigo Association would deprecate entering into controversy upon individual cases, but they do not hesitate to assail public Officers on the basis of an individual case. I have however no wish needlessly to enter into a controversy, and crave indulgence for having trespassed upon the Lieutenant-Governor's time, but after the violent attack the Indigo Association have made on my judicial character, I have felt it my duty to show not only that the Association were in error in supposing that the Decree was a good one, but also that the case itself was no exceptional one. That I had others to deal with, in which the Decrees were equally questionable, and which are not open to the explanation the Association have endeavoured to pass on the one now under notice.

18. Such then was the character of some of the cases I had to try; besides these I could enumerate others equally fulso, in which louthsome lepers, infants, men so bedridden from age or disease as to be unable to walk, and who were brought in carts and doolies, and whom it was necessary to prop up in Court, when their case was under trial, were charged with having received advances under covenant to sow and deliver Indigo Plant!!!

19. In conclusion I would only further add, for His

Honor the Lieutenant-Governor's information, that the words *bonâ fide* and *intrinsic* in the copy of my judgment\*

\* Dated 27th July 1860.

in Case No. 328, published in the public papers, are not in the original. The words there are *bond fides* and *catrinic*.

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From E. H. LUSHINGTON, Esq., Officiating Commissioner of the Nudda Division, to the Secretary to the Government of Bengal,—(No. 3006, dated the 7th November 1860.)

SIR,—I HAVE the honor to submit, for the information of the Lieutenant-Governor,\* the accompanying copy of a report from the Officiating Magistrate of Nudda, relating to some cases under Act XI. of 1860, in which it would appear that forgery and perjury had been very largely practised in the attempt to prove that certain Ryots had executed Covenants to sow and cultivate Indigo.

2. I have sent back the case of Hesarbdi Sheikh to Mr. Herschel, referred to in his 1st paragraph, and hope to be able to report the result of his enquiry as to the genuineness of the Kuboolyut in the course of a few days.

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P. S.—For the word conviction, at the close of the marginal note of Mr. Herschel's 5th paragraph, I presume the correct word should be commitment, as I have not heard of the cases having been actually tried at the Sessions.

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From W. J. HERSCHEL, Esq., Magistrate of Nudda, to the Commissioner of the Nudda Division,—(No. 250, dated the 28th October 1860.)

SIR,—I HAVE the honor to request that you will return me the papers of the case of Hesarbdi Sheikh, forwarded to you with my Memorandum No. 118, dated the 20th September 1860.

2. This case was quoted, I perceive, by the Lieutenant-Governor as an instance in which the forgery of a Deed of contract to sow Indigo was manifest on the face of the document itself. The Indigo Planters' Association however have declared their firm belief that it is genuine. The case in question cannot unfortunately be brought to direct trial, as it was out of Mr. Bell's power to commit it to me, Mr. Bell's decision in the case having been final.

3. But as the Association have declared their desire, while firmly defending their constituents from libel, to mark their displeasure if it should appear that any Concern has really employed forgery in support of its cases, I take the only opportunity which can be of use to record generally the evidence hitherto obtained, which creates such a strong impression that forgery has been used by Mr. Hill's Concern.

4. The first Kuboolyuts which were presented to me, from it, were pronounced by myself to be forgeries on the evidence of the case itself, and the parties concerned were committed for trial and convicted of forgery and perjury by the Sessions Judge. The case was sent up just as it lay before me, and the Judge, rightly perhaps, refused to allow evidence, which was subsequently obtained, that the Stamp Papers on which the Kuboolyuts were written were also forgeries. Had this evidence been obtained earlier, I can hardly suppose that any appeal would have been made from the Sessions.

5. The next cases which came before me were those committed by

\* A few of them only will stand commitment, owing to the consensus with which it was necessary to take down the evidence in each case. In many cases indeed it is not even possible to present any one for "attesting forged documents" the Planter Plaintiff having without any solitary exception distinctly refused to connect himself in any way whatever with these documents, while in others even the Gamushdars have avoided all reference to them in their depositions. In the following cases however sufficient evidence has been collected for conviction.

Mr. Bell, of which I annex a list.\*

6. Case 506 (Ryot charged, Bhogni Sheik). This Ryot was stated by the Plaintiff's witnesses to have given a Kuboolyut on the 10th of December 1859. The Kuboolyut itself however bears date 10th December 1860. The Stamp Paper on which it is written has a forged endorsement on it. It purports

to have been sold on the 4th September 1859, whereas the Vendor's Book shows that no Stamp Paper whatever was sold on that date. On the 5th, indeed, a Paper precisely similar (except as to the handwriting of the Endorsement,) to that of the Kuboolyut was sold to one Tazim, who bought sixteen sheets. These sixteen sheets have been traced and have all been recovered. They bear the real date 5th September. The sheet corresponding to the forged paper in this case is still blank, Tazim not having had occasion as yet to use it. The error in the dates shows that, when it became necessary to antedate the sale of the paper, reference was made to the Vendor's Book and the date, "5th September," must have been overlooked in running the eye down the entries.

7. A case almost precisely similar has been discovered in the course of this enquiry, but as Mr. Bell did not commit it, it cannot be prosecuted. In this (the case of Khudi Sheikh,) the genuine Stamp, of which the Paper of Khudi's Kuboolyut is an erroneous imitation (the date of endorsement being again wrong), has been traced out, and been found to be already in use as a Bond between the real purchaser and his debtor. The purchaser in both cases declares he knows nothing whatever of the Factory people, or why they have used his name.

8. In case 596, Boydinath was said to have given a Kuboolyut on the 10th December 1859. This also is dated the 10th December 1860. The paper on which it is engrossed is a forgery, though the Endorsement bears the correct date, 22nd September, on which the corresponding genuine paper was sold.

9. In case 612, Kamal Sheikh was said to have given a Kuboolyut on 10th December 1859. This also is dated 10th December 1860. The Endorsement is a forgery and an incorrect one, being dated 22nd September, whereas the paper, of which it was intended to be a counterfeit, was sold on the 24th September.

10. In cases 659 *versus* Roshan Sheikh,

660 „ Abodee,

666 „ Shokor.

The Kuboolyut in the first case, though stated in evidence to have been given in 1859, is dated 1850, a date as inconsistent with the text of the document as in the case quoted by the Lieutenant-Governor, but none the less a forgery on that account, if any connection be allowed to exist between the text and the Stamped Paper on which it is written, the latter being evidently a forgery in this case.

So also the Kuboolyut in the 2nd case 660, is dated 1860, erased and changed into 1859, while the third Kuboolyut, purporting on its face to have been given by Shokor in person, and sworn to have been so given by his witnesses, was afterwards stated to be a mistake on discovery of the fact that Shokor died three years ago.

11. I observe, by the way, that this is a very different mistake from that of entering dead men's names in account books, for which there is always the excuse that it was convenient for private record to keep the old names on, with the new ones paired on to them. But convenience could never suggest the force of allowing a contractor to continue to sign Bonds year after year in the name of his dead father only.

12. Taking the above cases into consideration, I have little doubt that the Kuboolyut in the case of Hesabdee Sheikh will turn out, on inspection, to be engrossed on forged paper.

*List of Cases committed by Mr. Bell to the Magistrate for investigation, on the charges of Forgery and Perjury.*

| Number of Case | Ryot charged.        |                                                                                                   |
|----------------|----------------------|---------------------------------------------------------------------------------------------------|
| 820            | Boromananda Sholk,   | ... Case not here at present, or at least not obtainable owing to the Record keeping being absent |
| 600            | Bhogal Sholk,        | ... Kulooyut dated 10th December 1860. Mohan of the Factory who wrote the Kulooyut committed      |
| 500            | Boydmath,            | ... Part of the record with the Commissioner. Kulooyut dated 1860                                 |
| 612            | Kamat,               | ... Part of the record with the Commissioner. Kulooyut dated 1860                                 |
| 650            | Roshan Sholk,        | ... Kulooyut dated 1860                                                                           |
| 600            | Aharon,              | ... 1860 erased, 1860                                                                             |
| 607            | Sakunder,            | ... Dead three years ago, sworn to having personally signed the Kulooyut                          |
| 606            | Shohar Mullik,       | ... Dead three years ago, sworn to having personally signed the Kulooyut.                         |
| 77.            | Bhalai Ghumani,      | ... Both dead long ago. But record of evidence too                                                |
| 77.            | Jadhoo Modhoo,       | ... <i>concluse</i>                                                                               |
| 603            | Milan Mondol,        | ... Cases in Record Room.                                                                         |
| 1840           | Syphal Pyar Jotedai, | ... Case with Commissioner.                                                                       |
|                | Heabdee Sholk,       |                                                                                                   |

(Signed) W. J. HENSONER,

The 20th October 1860.

Magistrate.

From W. J. HENSONER, Esq., Magistrate of Nudda, to the Commissioner of the Nudda Division,—(No. 260, dated the 8th November 1860.)

SIR,—I HAVE the honor, as requested, to state (as I believe I did demi-officially to Mr. Grote at the time,) what was the effect of the imprisonment by Mr. Betts, of Tetooram Chuckerbutty. Mr Maclean, who was then in charge of Damoorhoodah, informed me that immediately after the sentence was passed, every Mokhtear who was on the side of the Ryots left the spot, saying "that was evidently no place for them." One man however was unable to get away for want of bearers, and was immediately pointed out to Mr Betts as an instigator, by the Planters' people. Mr. Betts however saw no grounds for proceeding against him.



2. The departure of the rest however caused Mr. Maclean great inconvenience in trying his own cases, and it was several days before he could get the Mokhtears to go back.

3. On the news of Tetooram's imprisonment reaching Kishnaghur, the Mokhtears in my own Court, who were defending the Ryots, refused to act any longer, and continued to do so till I informed them that I had already sent the case up to Government.

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From the Officiating Commissioner of the Nuddea Division, to the Officiating Secretary to Government of Bengal,—(No. 970A, dated Camp Muncerampore, November 25th 1859.)

SIR,—I HAVE the honor to submit for the information of the Lieutenant Governor, copy of letter No. 261, dated 20th instant, from the Officiating Magistrate of Nuddon, reporting on the Kaboolyut of Hiesabdi Sheikh, which was referred to in the Lieutenant Governor's Minute, as dated 1856, but engrossed on paper 1859.

Mr. Herschel's enquiries appear to have been confined to the question of the paper being a forgery or otherwise, and though he has not been successful in probing the matter to the bottom, quite sufficient appears to have been discovered to warrant the belief that the papers on which the Kaboolyut was written was not that purchased from the stamp Vendor on 17th November 1859.

With regard to Mr. Herschel's intention to make full enquiries with the general question of the forgery of the Kaboolyuts filed with Act XI. cases, I beg to take this opportunity of mentioning that on an examination of the sale of stamps for the last few years in Kishnaghur, a sudden rise

of several hundreds, I think about three thousand seven hundred of two-annas paper, and of one thousand four hundred four-anna papers have been found to have taken place during the few months when the law for the enforcement of Indigo contracts was in action.

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*From W. J. HERSCHMIDT, Mag., Magistrate of Nudda, to the Commissioner of Circuit, Nudda Division, —(No. 261, dated the 20th November 1860.)*

SIR,—I HAVE the honor to report, that having yesterday received back the original document filed as the Kaboolyut of Hisabdee Sheikh, and dated 1856, on paper sold in 1859, I have compared it with the Vendor's book, and find that it agrees as to name and date and number. But the writing is not in the hand of the stamp Vendor, who has denied on oath that it is his writing, or signature, whereas the entry of that date in the book itself is in the Vendor's hand. The paper sold on the date in question, 17th November, was moreover bought apparently on the application of a Mahajan, as it was stated to be required for a "tamsook" and not for a Kaboolyut. I cannot positively pronounce the paper a forgery, because the Vendor admits that he has occasionally allowed others to endorse paper for him, and it is impossible to procure the real paper sold that day, because the purchaser was a Mokhtear's servant, and no trace of the paper can be obtained from the Mokhtear. I am making full enquiries into the general question of the forgery of these Kaboolyuts, of which a further report will be subsequently submitted. The Vendors are of course putting every obstacle in the way. Every enquiry hitherto made only adds to my conviction, that the greater part of the Kaboolyuts prosecuted under Act XI. of 1860 were forgeries.

From W. S. SETON-KARR, Esq., Officiating Secretary to the Government of Bengal, to W. GREY, Esq., Secretary to the Government of India, Home Department,—(No. 6303, dated the 24th November 1860)

SIR,—I AM directed to acknowledge the receipt of your letter No. 2080, dated the 24th ultimo, and to forward a Minute recorded by the Lieutenant-Governor, on the subject of the last complaint made by the Indigo Planters' Association, with Appendices, for the consideration of the Government of India.

2. The reply of the Lieutenant-Governor would have been forwarded at an earlier period, had it not been necessary to make some references to the local authorities.

The original enclosures are herewith returned.

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Minute.

1. ALTHOUGH Mr. Herschel's letter of the 7th November leads me still to expect a fur-

Secretary to Government of India, dated 24th October 1860, No 2080, including a letter from Secretary to Indigo Planters' Association, dated 13th October 1860.

ther communication from him connected with the subject of Mr. Fergusson's letter, I think it better to delay no longer

the remarks I have to offer on that letter, founding them on communications I have already received from Mr. Herschel and Mr. Bell.

2. I regret very much the necessity which obliges me to say any thing more on this subject, as it is hardly possible, in defending what has been so roundly attacked, upon what I believe to be no good grounds, to avoid every thing that may be misunderstood as opposition and antagonism to gentlemen for whose present, but as I trust only temporary

difficulties, I feel very sincerely. From the first sign of the general rupture between Planter and Ryot which has occurred, I have had but two principles ever in my mind: one, that equal justice should be done to both parties, and that to both should be secured that fair and lawful protection of his rights, his person, and his property, to which every subject of Her Majesty has an equal and an indefensible title; the other, that every thing should be done that justice to others would permit, and that properly could be done, to make the break-up of an unsound system, which in the natural course of things had now become inevitable, as little of a calamity as possible to those whose interests were involved in its fall. With these feelings, I much wish that the necessity of recurring to what cannot but be matter of irritation, had been spared me. But others have been attacked as well as myself, who have a right to a vindication; and a reply to Mr. Secretary Grey's letter, conveying the remarks of the Association on my Minute in answer to their first complaint, is unavoidable. I will endeavour to confine my part of this reply to the narrowest limits possible.

3. The Committee of the Indigo Planters' Association have been led to conclude that my feelings are deeply affected against the system of Indigo planting generally, and the persons who are engaged in that cultivation. It would be vain, even if it could be justifiable, after the publication of the Government records relating to the dispute between Ryots and Planters, and of the evidence taken by the Indigo Commission, to attempt to conceal the fact that, whilst in Behar, the N. W. Provinces, and Madras, nothing objectionable in the manner in which this trade is conducted is apparent, there have been grievous abuses in the Indigo system in operation in Bengal; and that the faults of this system,

wherein it differs from every other Commercial enterprise in India, are the sole cause why this branch of trade in Bengal, and this branch only, in all India, is now in disorder. Certainly if the "style and substance" of the paper objected to show that I severely condemn these abuses and faults, and that I regard their removal as a paramount duty both to the Ryot of Bengal, and to the honor of the British Government, they shew my feelings truly. But if they fairly lead to the inference that I am hostile to Indigo planting, apart from the abuses and faults of the old system peculiar to Bengal proper; and especially, if they make it appear that I have any feeling against "the persons who are engaged" therein, for many of whom I have a sincere respect and esteem, I can only express my regret that I have so written as to have been so misunderstood. I cannot however myself discover a word in the paper objected to, against Indigo planting on sound Commercial principles; or a word calculated to give personal offence; and I do discover unmistakable expressions in that paper which are in the contrary sense. It will be remembered that I did not spontaneously write one word of the Minute now impugned. As to style, it was a vindication forced upon me of measures that had been severely attacked, and attacked, as I believed and believe, on no good grounds; and as to substance, I had no choice but to relate the facts as they were, and as they were shown to be by the record.

4. The Committee, in the present letter, observe that I have been obliged to confess that gentlemen I employed in the Judicial Offices in the disturbed districts "were unfit for the common duties of their stations;" and this they advance as a ground in proof of the inefficient state of the Mofussil Courts. But here the Committee

have confounded the Judicial Offices as they normally exist, and the ordinary Mofussil Courts, with the special and temporary measures adopted last season, which were of a very exceptional nature, in favor of the planter exclusively.

Had it been thought right to leave the questions in dispute to the ordinary Law and the ordinary Mofussil Courts (which however remained open to the Planter had he chosen to resort to them), the hasty decisions would not have been passed, and the judicial unsteadiness under clamour would not have been shown, of which the Ryot in too many instances, but the Planter in no instance, has had to complain. It is not to be now questioned that the removal, for this occasion, of the wholesome check of appeal, was a mistake; but appeal exists, and always has existed in the ordinary Mofussil Courts; and the result of this experimental removal of it will be a lesson. So also, in the ordinary Mofussil Courts, Officers, subordinate to District Magistrates, of no experience in Civil justice, are not Judges upon the whole matter of action in difficult Civil suits; which by the exceptional Law in question, as it was finally passed, they were for the moment made. In circumstances of almost unprecedented difficulty, the higher District Officers, as a body, and upon the whole, have done admirably well. They would have just cause of dissatisfaction with me, if in noticing this remark of the Committee of the Association, I failed to record my high opinion of their conduct throughout the crisis. I earnestly hope that much higher approval than mine will be accorded to them. To argue against official competency generally, and the efficiency of Courts in their normal condition, because some of the Assistants and Deputy Magistrates, whose proper business it is to look after the Police in subor-

dination to the District Magistrate, and to conduct minor criminal trials appealable to the Judge, failed when placed, at a time of great excitement and clamour, in a position of great responsibility, quite new to them, and of great difficulty, is, I submit, to argue unsoundly.

5. The Committee of the Association name to His Excellency in Council Mr. Bell, an experienced Principal Sudder Ameen, of high character, whose fitness for the judicial bench I understand them to question, on the ground of his decision in a certain case. Mr. Bell has answered for himself, and His Excellency in Council will pronounce upon the justice of the charge against him. The particular case mentioned will be noticed below. For myself, I am happy to record it as my opinion, that the public confidence in Mr. Bell, as a good Judicial Officer, will be increased rather than diminished by his answer to this imprudent imputation.

6. The Committee next allude to the fact of what they call "a vast Military force" employed in Nudda and the neighbouring Indigo District, as evidence of confusion therein. From the outset I made it my first object to protect the factories from violence, and to preserve the general peace, for which purpose I desired to be stronger in the dangerous quarter than was apparently necessary, rather than be too weak to secure the object. With the chance of a general agrarian insurrection to provide against, prudence seemed to demand this. But the strength of the Military force employed is, I have reason to believe, strangely over estimated generally. Unfortunately, in no part of the Lower Provinces of the Bengal Presidency, whatever emergency may arise, has the Government of Bengal

a "vast Military force" available. For forty-three millions of people the number of troops, European and Native, in those Provinces, does not exceed about 19,000 men, besides 8,600 men of the Civil Police Battalions, and 600 Police Sowars. In the two great Indigo Districts of Nuddoa and Jessoro, taken to contain 1,913,909 inhabitants, the force of troops and Military Police at this moment is

|                               | Men.  |
|-------------------------------|-------|
| Native Infantry, .....        | 480   |
| Bengal Military Police, ..... | 977   |
|                               | <hr/> |
| Total,.....                   | 1,457 |

This is one soldier or Military Policeman for every 1,313 souls ; and it is certainly any thing but a "vast Military Force." Such as it is, however, I am truly thankful that its presence has sufficed to keep the country, throughout the entire quarrel and excitement, perfectly quiet. With the concurrence of the Commissioner of the Division, the Native Infantry are about to be immediately removed.

7. The Committee of the Association next impugn my statement in paras 28 and 29 of my former Minutes of the case of the Mookhtar Teturam Chuokerbutty, whose release by me from imprisonment under an illegal sentence, had been made a very prominent matter of charge by them against me. The case was first reported in Mr. Grote's letter of the 21st of April 1860. On again referring to the papers in the case, I find the statement made of it to have been perfectly correct. I did not say that the man had appeared before the Deputy Magistrate in his capacity of Mookhtar; the cases had not come on when he was sentenc-



ed. But he *was* a Mookhtar. In his own answer to the Deputy Magistrate, at the trial, as abstracted by Mr. Herschel upon the back of the Deputy Magistrate's return of the case, and reported by Mr. Grote to me, he said "I am the Mookhtar of the Ryots, and was only "acting legitimately as such in what I said to them;" and this is the substance of the full translation of his answer afterwards obtained. The first witness for the prosecution designated him as "Mookhtar Teturam Chuckerbutty;" so that not only was he a Mookhtar, but the Deputy Magistrate knew that he was; nothing of this is contested by the Deputy Magistrate in his explanation. Mr. Bell, the Principal Sudder Ameen, in the appended paper, states that he knew Teturam only as "an Attorney for the Ryots," which the records of his Court, he says, will show him to be, and irrespectively of the facts of his being a Mookhtar, and of his being, as there is no doubt he was, about to defend the very cases of the Ryots about to come before the Deputy Magistrate, it is admitted by the Committee themselves, as now advised, that what he was sentenced for was no legal offence in any one.

8. Then the Committee affirm that I was wholly misinformed as to the Ryots in that quarter, in consequence of this unlawful imprisonment of the Mookhtar not being able to obtain the services of legal agents to defend their causes (for several days), and that the prosecutors then had it for several days all their own way; and they say "they are quite at a loss "to understand upon whose representation the Lieutenant Governor has been led into so grave an error." Unfortunately, there has been no error. I was informed of the fact by Mr. Grote reading to me a letter from Mr. Herschel. I now append an official letter from Mr. Herschel, formally recording

the circumstances. This letter shows that when I wrote my former Minute, to which the Committee object, I had not a knowledge of all the bad effects of the illegal and unjust sentence of this Mookhtar, and therefore that I did not describe them so strongly as they should have been described; not only at Damoorhoodah, did every Mookhtar, who was on the side of the Ryots, leave the spot, after the sentence was passed, saying "that was evidently no place for them," (except one man unable to get away for want of bearers, who was immediately pointed out as an "instigator;") and not only was Mr. Maclean consequently put to great inconvenience in trying his cases there, it being "several days before he could get the Mookhtars to go back;" but, on the news of the sentence reaching the Sudder Station, the Mookhtars of Mr. Herschel's own Court, who were defending the Ryots, refused to act any longer, and continued to do so till informed that Teturam's case had been reported to Government.

9. The next, and the only other case of which the Committee impugn the treatment in my former Minute, is that noted on the margin. One of the complaints against me was that I had removed four officers named from the Indigo Districts, improperly, and to the prejudice of the Planters. My answer to that complaint was that I had removed from the Indigo Districts only one officer, namely, the one who had, with such haste and disregard of the law, imprisoned the Mookhtar above-mentioned. Even this officer by his removal, suffered neither in rank nor in pay. Mr. Grote had originally questioned the prudence of employing this officer in this very peculiar duty; he had been recalled to the Sudder Station

Chundermohun Chowdry  
*versus*  
 Boranund Sheik and others.

by the local authorities; and by my order he was replaced in his own permanent appointment at a distant station. In proof that this officer's return to his ordinary line of duty was not too soon, I mentioned that it had accidentally come to my knowledge that the same officer, in a civil case under the Act, had given the planter a decree against the Ryot on a written agreement purporting to have been made in 1856, executed upon a stamped paper sold in 1859. This the Committee represent as a gravely erroneous statement; for though they admit that the stamped paper was sold in 1859, and that the date of the bond executed upon it is in 1856, they contend that this last date is a clerical error, for the contents of the bond show that it relates to 1860, and therefore it could not have been intended to make it appear to have been executed so far back as 1856. My information was nevertheless precise and correct, so far as it went. The deed had been judicially pronounced spurious; the stamped paper on which it was written was endorsed as sold on the 10th November 1859, and the date of the deed, that is to say, the date on which it purported to be executed, was the 10th of December 1856. The excuse that the date was a clerical error was never, that I am aware of, pleaded in the Court. That was all I knew. Most assuredly if I had known that the date of the deed was an error, whether regarding the deed as a forged or as a genuine document, I should have explained that fact. As it happens, however, that fact, very material in one point of view, is immaterial to the argument I had in hand.

10. My single object in mentioning this and some other bad cases, was to answer the objections which had been very strongly taken by the Committee of the Association to certain orders of Government. I had earnestly inculent-

ed on the officers entrusted with duties under the Indigo Act, inexperienced in Civil business as they all were, and subject, as they all were, to no appellate authority, the duty of giving very careful attention to their cases ; of patiently sifting evidence on controverted points, in the true spirit of equity ; and, in short, of performing to the best of their ability and judgment, the obligations of good Judges in cases all important to the parties. I had transferred elsewhere one officer, for notable carelessness, haste, and disregard of law in his proceedings ; and I had circulated, at the request of an experienced official, the papers in a certain case, which proved the necessity of very carefully examining the written evidence tendered in the class of cases in question. These were the orders impugned, and the decision in question was mentioned as an example, *showing their propriety*. In this light, it is a point of absolute indifference whether the theory of the Committee as to the genuineness of the bond in question, or the formal Judicial decision as to its spuriousness of the Principal Sudder Amcon (which that judge on revision still upholds, upon what seem to me solid grounds), be right. In any view, the Deputy Magistrate cannot have been otherwise than culpably hasty, in giving a decree, upon such a bond, without stating the fact of the discrepant date, and explaining his reason for upholding both the truth, and the legal validity of the instrument, nevertheless. In a carefully conducted civil suit, wherein both parties are allowed full opportunity to make the best of their own case, with the assistance of Mookhtars, such an omission is unaccountable. But the further information which the insistence of the Committee has elicited from Mr. Bell, shows still more proofs of haste and negligence in the officer of whose removal the Committee complained as improper and injurious to the Planter. It now appears by Mr. Bell's report, that the

evidence of the nominal witnesses to the execution of this most suspicious document was never taken; and it is impossible to read Mr. Bell's exposition of his judgment, the case before him and that before the Deputy Magistrate, being essentially one and the same, without saying that, whichever decision was right, one was the result of careful attention, conscientiously applied, and the other was given blindly. On either supposition, I submit, my orders inculcating and enforcing care and attention generally, and especially in regard to the documentary evidence adduced by the factory Omlah, are supported by this example.

11. If any disinterested persons doubted whether the necessity of the precautions complained of was fully proved by the instances alluded to in my former Minute, the painful array of new cases set forth in Mr. Bell's present paper, and in Mr. Herschel's letter of the 7th instant, will set that doubt at rest.

12. The point next adverted to by the Committee, namely, the circulation of a certain judicial decision of Mr. Herschel's is matter already disposed of on the original complaint. But with reference to the confident opinion given of the incorrectness of the conviction at the Sessions, it is necessary to point attention to the subsequently obtained evidence mentioned by Mr. Herschel, which proves beyond a doubt that the endorsement of sale on the stamped paper was forged.

13. The Committee are mistaken in supposing that the office of Superintendent of Police has been abolished. It still exists with all its original functions. But instead of there being only one Superintendent of Police in the Lower Provinces, each Commissioner is Superintendent of Police within his own Division.

14. The Committee of the Association remark on general charges against Indigo Planters which they conceive me to have made. Throughout their present letter, the Committee seem to me hardly to keep in mind that the Minute they object to was written in answer to serious charges against the measures of this Government, made by themselves, but for which it never would have been written at all. I was forced to answer their specific complaints; and in so doing it was not possible to omit noticing the facts which constituted the grounds on which the measures to be defended were adopted. If those facts, and the argument necessarily founded upon them, have borne heavily in any quarter, it should be remembered that they were drawn forth, of necessity, by the complaints that the Committee had themselves made. I submit to His Excellency in Council that I have made no general charges, unless it be against the native Omlah of the factories, of whom, as a body, I certainly have spoken disparagingly, but in whose favor the Committee say nothing.

15. The Committee conceive that I am bound to with-

Since this Minute was signed, Mr. Lushington's letter of the 25th instant, enclosing Mr. Herschel's letter of the 20th instant, has been received. Mr. Herschel's letter makes the evidence against the Kaboollyut stronger than the evidence existing at the time of Mr. Bell's decision. The extraordinary increase in the sale of the class of stamps required for such Kaboollyuts as those in question, during the time when the act for the summary enforcement of Indigo Contracts was in force, which was not the season for making or renewing Indigo Contracts, mentioned by Mr. Lushington, is deserving of notice.

draw what they hold to be charges, because a certain bond judicially pronounced to be spurious, is not, as I had been induced to suppose, proved to be spurious, *by reason of its false date alone*. The strings of cases which Mr. Bell and Mr. Herschel specify and describe, will show how needless it is to discuss the question whether this one document was forged

or not, I will only say that till I saw these papers, which this renewed attack of the Committee of the Association have

"I do not wish to be understood  
"as desiring to justify measures  
"by throwing blame personally on  
"the prosecuting planters. It is  
"avowed and known, that the  
"work of prosecuting claims was  
"left to the Native Omlah of the  
"Factories, who do not appear  
"to have been under any practical  
"check, and whose peculiarly  
"unscrupulous character is denied  
"in general terms, by no person,  
"European or Native, of any  
"class. I believe the Planters  
"themselves are more cheated  
"and deceived by these men, than  
"any other persons are. The best  
"intentioned Planters, therefore,  
"must expect an intelligent and  
"just Judge to spare no pains in  
"testing evidence got up by such  
"agency."

forced out, I had not myself  
any but an inadequate concep-  
tion of the reality. As to gene-  
ral charges connected with  
these cases, on looking over  
the Minute objected to, I can  
find but one passage that can  
be imagined to convey a gene-  
ral charge. I cite it in the  
margin. I beg that the ap-  
pended papers by Mr. Bell  
and Mr. Herschel may be first  
perused, and that this passage

in the Minute complained of, or the whole Minute if neces-  
sary, may be read afterwards, and if His Excellency in Coun-  
cil shall then say that I have a word to withdraw, or that I  
have in any passage given too strong a coloring to my argu-  
ment, I am entirely in his hands.

16. For myself I do very much deplore the necessity  
which has forced this second paper from me. There is no  
feeling of antagonism to Indigo Planters on the part of  
Government, or of any officer of Government. On the  
contrary there is, in every official quarter, a sincere desire to  
assist them in every proper way. In this desire I individu-  
ally do most fully and strongly participate. All sensible  
men must now see that coercive cultivation, where no legal  
obligation exists, is at an end. Whether it is right or  
wrong that this should be so, the Ryot has settled the  
question of fact; in South Western Bengal, he will no longer  
cultivate Indigo for Planters upon the old terms, and under

the old system. Wherever Indigo cannot be grown with the free consent of the grower, under the sound commercial system, prevalent in all other trades in India, of free bargains and fair market prices, Indigo will not now be grown on Ryots land, where no unexpired engagement is in force. In this state of things, I would very respectfully put it to the intelligent and experienced men of business, who represent the great interest in question, whether it would not be a wiser and more hopeful course, to turn the attention of the body of gentlemen concerned to the future, rather than to the past; to the improvement of their position, by originating some reformed system, in which the Ryot will be their coadjutor, instead of their antagonist, rather than to complaints against Government and its officers, for what occurred during an inevitable crisis. I am sure that this reform is a matter of necessity, unless Bengal is to abandon to Madras, Behar, and the Upper Provinces so much of its share of the Indigo trade as is due to Ryottee cultivation. And I am sure that it will not be assisted by discussions, such as are unavoidably raised by such letters as those to which I have been now obliged to reply. In performing this ungrateful task, I trust that I have not said an unnecessary word likely to excite or prolong ill feeling, or to give any ground of personal offence to any one. I have at least done my best, in defending myself and others, to avoid recrimination. I have not concealed my bad opinion of a bad system; of its false economy, and of its political danger; but I have never forgotten that it has been the growth of half a century, and has been inherited rather than created by the present generation.

(Signed) J. P. GRANT.

23rd November, 1860.



From W. GUNN, Esq., Secretary to the Government of India, Home Department, to W. S. STURTON-KARR, Esq., Officiating Secretary to the Government of Bengal,—(No. 1814, dated Fort William, the 22nd September 1860.)

SIR,—The Governor General in Council having considered your letter No. 4840, dated the 18th instant, and the papers which accompanied it, I am desirous to inform you, that His Excellency in Council assents to the proposal of the Lieutenant Governor, that a general Notification shall be issued informing the Ryots that the Government is not opposed to the cultivation of Indigo, but that they are not required to cultivate it except with their own free consent, and warning both the Ryot and the Planter against having recourse to any violent or unlawful proceedings.

2. The Indigo Planters' Association having, in a recent letter, intimated a wish that no further general proclamation of any kind should be issued by the Bengal Government, fearing lest it might be misinterpreted and misapprehended, the Governor General in Council would have been glad if the circumstances of the case had permitted the Government to leave the matter for mutual adjustment by the Planter and the Ryot, without any intervention of the Government whatsoever. But though His Excellency in Council is quite sensible how futile would be any attempt which could be properly made by Government to bring about a settlement of the differences now unhappily existing between the cultivators and the Indigo Planters, he is compelled to admit that the statements contained in the enclosures of your letter are such, as to demand that the Government should, in plain terms, declare to both Ryot and Planter, the positions in which they stand, and announce to them distinctly that the Government will not tolerate a resort to violence, but

will take prompt and effectual measures to restrain, and to punish any who may commit themselves to such a course.

3. I am desired therefore to forward to you the draft of a Notification, based upon that which is given in the 9th para. of your letter, with some modifications and additions, and to request that, after it has been very carefully translated, it may be promulgated in those Districts in which the Lieutenant-Governor may consider the precaution to be necessary.

4. I am to request that the attention of the Lieutenant Governor may be drawn to the concluding words of the clause, informing the Ryots that it is not intended to renew the temporary law for the summary enforcement of Indigo contracts by the Magistrates. By the words referred to, the Government undertakes to provide, as soon as possible, for the more speedy adjudication of suits for the enforcement of contracts, and from the preamble of the notification it will be understood that suggestions to this end will be made by the Lieutenant-Governor in communicating his views upon the report of the Indigo Commission. The Governor General in Council fully acquiesces in the opinion which is indicated in the 3rd paragraph of the Lieutenant-Governor's Minute of the 17th instant, as to the immediate necessity for a multiplication of Sub-divisions, a better Police, and Civil Courts of prompt and effective procedure, and to those His Excellency in Council would certainly add a provision for the cheap and easy registration of contracts for the delivery of agricultural produce of any kind. In regard to the first two points,—a multiplication of Sub-divisions and a better Police, the Governor General in Council will be prepared to give the Lieutenant-Governor any reasonable

assistance that His Honor may think it necessary to ask for. In regard to the other two points, namely, more effective Civil Courts and provision for registration, the Governor General in Council would wish to see immediate steps taken for preparing the drafts of such laws as may be deemed advisable for giving effect to those measures, in order that the Bills may be introduced and read a first time before the 6th of October, after which date the Legislative Council will not re-assemble for some weeks.

THE LIEUTENANT-GOVERNOR has received the Report of the Indigo Commission, and will, in a few days, lay before the Government of India such suggestions as the circumstances set forth in the Report appear to him to call for. Meanwhile the Lieutenant-Governor, with the full sanction and concurrence of the Governor General in Council, calls the careful attention of all parties concerned to the following—

#### NOTIFICATION.

If any Ryots or other persons believe that the Government wishes that the cultivation of Indigo should cease, they are mistaken. The Government hopes that the cultivation of Indigo will be continued. But the Government is convinced that on the lands of the Ryots it can be continued only with the free consent of the Ryots themselves, and upon principles of justice and of fair dealing on both sides.

All Ryots are hereby assured that those who are not under any valid unexpired Contract, cannot now be compelled, and will never be compelled, to cultivate Indigo against their own wishes, or to take advances for that purpose.

All Ryots who are under a valid unexpired Contract, are warned, that if they do not fulfil their engagements honestly, they will be liable to actions in the Civil Court and to decrees for damages.

Both Planters and Ryots are hereby solemnly warned to abstain from violence and intimidation. The Planters are warned against attempting to compel Ryots by force to cultivate Indigo. The Ryots are warned against attempting by force or by intimidation of any kind, to prevent the cultivation of Indigo by others, and against resisting the fulfilment of their own contracts. All persons seeking the enforcement of contracts, or redress, must do so in a lawful manner, through the constituted tribunals.

If the unlawful use of force is resorted to or threatened by any ill-advised persons, the Magistrates will instantly check and punish such misconduct. An ample force of Military Police has been placed at their disposal for this purpose.

All disputes between Planters and Ryots regarding the possession of lands, or regarding boundaries, and all disputes regarding lands claimed as Nij or Khas by Planters on the one hand, and as their own Ryottee lands by Ryots on the other hand, must be decided in the usual course—that is to say, by the Magistrate, under Act IV. of 1840, or by the Collector, under Act X. of 1859, or by the Civil Courts.

It is not the intention of the Government of India to re-enact the temporary Law for the summary enforcement of Indigo Contracts by the Magistrates, which Law will expire on the 4th of October next, corresponding with the

19th of Assin. After that date, actions for breach of existing contracts will be cognizable, as before, by the Civil Courts. But it is the intention of the Government to provide, as soon as possible, for the more speedy adjudication of such cases, by increasing the number of Courts, and by simplifying procedure.

All Zemindars and other persons concerned in the ownership or management of lands in which Indigo cultivation has prevailed, are required to exhort the Ryots under their influence to refrain from any violent or unlawful act.

(Signed.) W. GREY,  
*Secretary to the Government of India.*

From W. S. SETON-KARR, Esq., Officiating Secretary to the Government of Bengal, to the Commissioners of Nuddea and Rajshahye, Nos. 5013 and 5014, dated the 24th September 1860.

SIR,—I am directed to enclose <sup>Nuddea 300</sup><sub>Rajshahye 200</sub> copies of an English Notification, with <sup>Nuddea 600</sup><sub>Rajshahye 1000</sub> copies of a Bengali translation of the same, which, with the full sanction and concurrence of His Excellency the Governor General of India in Council, it has been resolved to publish in those places where strong excitement on the Indigo-question prevails. In such places, a copy of the English notification should be sent to every Indigo Planter, and so many copies of the Bengali translation should be issued, as may be necessary to make the contents fully known to the villagers.

2. Where no excitement on this subject prevails, no issue of this notification is to be made.

3. The object of this notification is, by explaining clearly the true position both of the planter and of the ryot, and by

assuring the villagers against violence, to allay excitement, to remove doubt, and to dispel apprehension, where such feelings exist to a dangerous degree; and to prevent all resort to the illegal use of force on either side, the consequences of which, in the present state of feeling, might be disastrous.

4. The principles contained in this proclamation are simply that the law must be obeyed and enforced. All public officers, therefore, will everywhere, upon occasion, act in accordance with this notification. But it is considered extremely desirable to do nothing that can create excitement, where none already exists. Where Planters on the one hand have no difficulties, and ryots, on the other hand, have no apprehensions of compulsion, no unusual measure is called for; and any such measure might be misunderstood.

5. There are, however, tracts of country in your Division, where the rupture between ryots and Indigo factories is too decided to leave room for any objection of the above nature, or to make it doubtful that the one paramount consideration is to preserve the public tranquillity.

6. Whenever it may be a question in which of these two classes a tract of country should be placed, the Lieutenant Governor relies confidently on your judgment and discretion.

7. A copy of the letter of the Secretary to the Government of India transmitting the notification in question, with the orders of His Excellency in Council regarding its promulgation, is enclosed for your information and guidance.

From W. S. SETON-KARR, Esq., *Officiating Secretary to the Government of Bengal*, to the Secretary to the Government of India, Home Department, No. 5301, dated the 6th October 1860.

Sir,—I AM directed to acknowledge the receipt of your letter No. 1814, dated the 22nd ultimo, and to forward in reply a Minute by the Lieutenant-Governor, in which the important questions recommended to the attention of the Bengal Government, are fully discussed and provided for as far as is possible at present.

#### Minute.

IMMEDIATELY on receipt of this letter from the Government of India, a copy of the paper was sent to Mr. Seonce, the Bengal Member of the Legislative Council, and I have had an interview with him on the subject since he has studied them.

2. Mr. Seonce informed me that he could not be prepared with a bill for the registration of contracts for the delivery of agricultural produce by the 6th of October, and that he is unable to devise a more expeditious system of procedure for the decision of suits brought for the breach of such contracts, which shall meet the ends of justice, than the system provided by the new code of civil procedure, which has lately been introduced in all the civil courts of the interior.

3. I have also had an interview with Mr. Harington, with reference to the instructions of the Government of India conveyed in this letter. Mr. Harington informed me that he would immediately move the third reading, and passing of a bill for the establishment of Courts for Small Causes, which has long been under discussion. This bill, I believe, has been passed.

4. I beg leave respectfully to express my entire agreement with the opinion of His Excellency in Council as to the expediency of a law to afford practical facilities for the registration of contracts for the delivery of agricultural produce, as being a provision that is much required. The common practice remarked upon in the report of the Indigo Commissioners, of taking the signatures of ryots to blank papers, and other considerations arising from the stipulations of some of the form of agreement in use, and the unlettered character of ryots in general, lead me to the conclusion that the registration of contracts of this sort should be imperative; that on the one hand the identity of the contracting party should be ascertained, and certified at the time of registration; and that it should be the duty of the registering officer to assure himself that the contracting party understands perfectly all the stipulations in the written agreement, and freely consents to them; whilst on the other hand, his acknowledgment of the receipt of the consideration for which he has made the agreement, should at the same time be recorded for the security of the party giving the consideration. I can see no practical difficulty in providing means for such a system of registration. All Moonsiffs, all Deputy Collectors and Deputy Magistrates, all Assistants, and all Sub-divisional Officers are available for this business; and any number of respectable officers can be specially appointed to perform it, that may be found to be necessary, moving from place to place for the purpose. A small fee on registration, probably a fee of four annas, and certainly a fee of eight annas, would pay all charges. This should be paid by the party interested in obtaining a document, under which he could sue in case of breach of contract, and which will be to him an unquestionable receipt for payments made.



5. I am, like Mr. Seonce, unable to suggest any course of procedure for the trial of suits for breach of such contracts as these, that shall be more prompt or effective, consistently with the ends of justice, than the new Code of Civil procedure is, if properly worked. That Code was framed, after infinite pains, and long consideration, by gentlemen, than whom, I believe, none ever before met together in India, who amongst them combined great natural ability with so much acquired knowledge of the practical working of the Indian Country Courts, of the Indian Courts of English Law, and of English Courts. And it was the ruling object of all these gentlemen, to simplify procedure to the utmost possible degree; and to get rid of everything that tends *unnecessarily* to delay judgment and execution. The result of all the enquiries I have made from the Native Judges, by whom nearly all original suits are tried, and of whom I have now seen many in different parts of the Lower Provinces, is that the new procedure, in working, has been successful even above all hope. Cases are now rapidly decided, excepting of course peculiar cases where all the necessary facts cannot be got at without delay; and as the whole system is now, and is very different from that to which the judges have been accustomed all their lives before, if it does well now, it is quite certain that it will do better after longer practice.

6. Taking a practical view of the question, I see no reasonable ground for expecting any material improvement in point of promptitude, from any change in the procedure of any Courts that may be established, which are intended to do full justice between the parties in suits before them. The plaint, under the new Code, may be compressed in a few lines, and should be rejected if redundant. It must

be accompanied by any document mainly relied on. No written pleadings are required, and the defendant is immediately summoned for a day fixed for the trial of the case (the documents and witnesses on both sides being called for), if the nature of the suit is such as to allow of so summary a course, or otherwise, for the settlement of the point or points really at issue between the parties; and when these are settled the case may go to trial as soon as the evidence can be procured. In fixing days for the trial, or the settlement of issues, the judge has no need to allow an hour more than is reasonable and fair, under the circumstances of the case in hand. The execution is as simple and as prompt as the trial. In short, unless by a summary suit is meant a suit in which the evidence and arguments on *both* sides are not to be thoroughly gone into, all suits under the new Code of Civil procedure are summary suits; and in no suit, under this procedure, can any delay arise, which is not rendered necessary by the specialties of the case, if the law is properly worked, and if the Court before which the suit is brought, is not in arrears.

7. Mr. Harrington's Small Cause Court Procedure is not, and does not profess to be more prompt than any Court under the new Code may be, and ought to be, when trying the class of cases for which, in particular places, the Small Cause Courts are intended. The object of these Small Cause Courts, which in my opinion is an admirable object, is to provide in great towns, suburbs, marts, and other very populous and wealthy places, in which Small Causes of simple nature are numerous, a Court of a very high order, and of course expensive in a corresponding degree, exclusively for this class of cases. In the places for which such Courts are intended, it is expect-

ed that, as in Calcutta, such Courts, costly though they will be, will pay themselves; the advantages will be that, considering the high order of the Court and the nature of the suits it is to try, appeals may be dispensed with safely, and without giving the suitors dissatisfaction; and that from the absence of all classes of cases which are in their nature intricate and long, it will be possible to prevent in practice all delay in cutting on causes as fast as days can be fixed for trying them. It is a part of the scheme, that in those places where a Small Cause Court is established, the class of cases cognisable by such Court are excluded from all other Courts within the jurisdiction of the Small Cause Court.

8. It does not appear to me that any benefit can be derived from these Courts in several districts. I should certainly rejoice were it possible to create half a dozen Civil Courts in every district,—one, for example, in every Sub-division, whereof the Judge should be paid Rupees 600 or Rupees 700 a month, as is contemplated for these Small Cause Courts. But that, I fear, is quite out of the question. There are not a great many Districts in which there is one place so populous and rich as to require, and to be able to support, such a Court. Now if only one such Court were established, having jurisdiction all over a rural District, the effect would be pernicious in the highest degree: for in that in a particular class of cases, being the class which above all others will least stand against the inconveniences of distant justice, one Court would be substituted for perhaps a dozen courts at present scattered over the face of the country, the result would be, that a man having a suit to lodge, if unfortunately for him, and his adversary, the nature of their dispute should be very simple, would have to come in

seventy miles perhaps for the trial, instead of having it tried by the Moonsiff next door.

9. But I believe that the whole object can be gained by the simple executive step, of providing, whenever unusual provision for these contract cases is required, an additional staff of Moonsiffs, expressly for the trial of these cases under the regular code of procedure, whereby the only cause of probable want of promptitude I know of, namely, a file of arrears, including several long cases, will be avoided. Similarly, provision may be made for the immediate trial of all appeals in such cases, by providing an additional Judge for the Districts in question, for this special purpose amongst others.

10. I believe that an additional Civil and Sessions Judge will be required for Kishnaghur, Jessore, and Pabnah, in order to the prompt disposal of appeals from the summary decisions of Magistrates in cases of possession under Act IV., and of appeals from the Civil decrees of Collectors under Act X. I have had reason to believe that the Additional Civil and Sessions Judgeship of Chittagong may now be abolished; on this point I have consulted the Sudder Court, which court has report that the abolition may be carried out; I propose, if the Governor-General in Council approves, to transfer this office to the districts indicated, for the express purpose above explained, whereby the object will be attained without increase of expenso.

11. In the matter of Sub-divisions, I have already, acting under the permission conveyed in the orders of the Hon'ble Court of Directors, No. 61, dated 4th November 1857, and the general sanction of the Government of

India in conformity therewith, created several new Sub-divisions in the Indigo Districts. There are already constituted four Sub-divisions in Jessore, four in Nudda, two in Pubna, south of the Ganges, and three in Baraset. I have, with the aid of the experienced Commissioner of Nudda, now matured a scheme for the re-arrangement of the Sub-divisions in his Division, whereby there will be very equally spread over the country, and posted at the most important places, besides the Sudder Stations, each of which forms, as it were, a Sub-division, five Sub-divisions in Jessore, four in Nudda, two in Baraset, and two in the 24-Pergunnahs, besides two Sub-divisions in Pubna, South of the Ganges, and besides the two small Cantonment Sub-divisions of Barrackpore and Dum Dum, under each of which there is a Thannah embracing a considerable rural tract. There will thus be immediately in this quarter, magisterial authorities at twenty-one different points, generally not more than 25 miles apart, and never, I believe, more than 30 miles apart. Thus, one of the eight Commissionerships of which the Lower Provinces consist, is provided for. His Excellency in Council will recognise the importance of this improvement, on learning that in all this great tract of country, up to the latter end of the year 1843, there were no officers having any magisterial power whatever, except at the four stations of Allipore, Baraset, Jessore, and Kishnaghur.

12. I do not think that in this Commissionership more is demanded in this way; and I purpose to take up all the remaining Commissionerships, one after the other, in the same manner. There is much to be done in all Commissionerships in the proper arrangement, as well as in the multiplication of Sub-divisions.

13. In the matter of a better Police, if His Excellency in Council sees no objection, I propose to await the passing of the Bill that has just been introduced in the Legislative Council by the Hon'ble Sir Bartle Frere. For present purposes I have no reason to fear that the hands of the Executive authority are not sufficiently strong in the Indigo Districts.

14. The four points on which the Government of India gave me instructions in this letter are—

1. A multiplication of Sub-divisions.
2. A better Police.
3. Civil Courts of prompt and effective procedure.
4. Cheap and easy Registration of Contracts for delivery of agricultural produce.

I believe that the first object has been adequately provided for; and that the second must await the Legislative action already commenced. The third appears to me to require any executive action, which the sanction of His Excellency in Council will enable me to carry out. On the fourth point I will request Mr. Seance to take the question into his immediate consideration, with a view to the early preparation of a Bill to be laid before the Legislative Council.

CALCUTTA :

BENGAL MILITARY ORPHAN PRESS,

NO. 6, BANKSWALL STREET.

Appendix to Pamphlet entitled "Papers relating to the Cultivation of Indigo in the Presidency of Bengal, 1860."

From W. GREY, Esq., Secretary to the Government of India, Home Department, to W. S. SUTTON-KAUR, Esq., Officiating Secretary to the Government of Bengal,—(No. 2163, dated the 28th December 1860.)

SIR,—WITH reference to your letter No. 6303, dated 21th ultimo, submitting a Minute dated 23rd idem, recorded by the Lieutenant-Governor, with reference to the representations made by the Committee of the Indigo Planters' Association, in their Secretary's letter dated 13th October, I am directed by the President in Council to forward, for the information of the Lieutenant-Governor, the accompanying

copy of a letter\* on the subject,  
from the Officiating Secretary  
with the Governor General.

From A. R. YOUNG, Esq., Officiating Secretary to the Government of India, with the Governor General, to the Secretary to the Government of India, Home Department,—(No. 31, dated Camp Four, the 24th December 1860.)

SIR,—I HAVE the honor to acknowledge the receipt of your letter dated 30th ultimo, No. 2707, and of its enclosures, regarding certain representations made by the Committee of the Indigo Planters' Association in a letter from their Secretary dated the 13th October.

2. The Governor General having read the Minute of the Lieutenant-Governor of Bengal, dated the 23rd ultimo, forwarded by you, and the papers accompanying it, desires me to state that he concurs with the President in Council in considering that there is nothing in the letter of the 13th October, from the Indigo Planters' Association, which should



affect the opinion already expressed by the Governor General in Council, that the conduct of the Bengal Government, and of its Officers generally, has been marked by a strictly impartial administration of the Law to all classes concerned.

3. Further, and in answer to the 14th and 15th paragraphs of the Lieutenant-Governor's Minute of the 23rd ultimo, the Governor General desires me to express his opinion that there are not, in His Honor's previous Minute of the 17th August, any general charges, the withdrawal of which can be demanded justly.

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